CLERK'S COPY.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1928 19

No. 632

THE FARMERS LOAN AND TRUST COMPANY, AS SOLE SURVIVING EXECUTOR OF THE LAST WILL AND TESTAMENT OF HENRY R. TAYLOR, DECEASED, APPELLANT,

vs.

THE STATE OF MINNESOTA

No. 633 26

THE FARMERS LOAN AND TRUST COMPANY, AS SOLE SURVIVING EXECUTOR OF THE LAST WILL AND TESTAMENT OF HENRY R. TAYLOR, DECEASED, APPELLANT,

vs.

THE STATE OF MINNESOTA

APPEALS FROM THE SUPREME COURT OF THE STATE OF MINNESOTA

FILED JANUARY 18, 1929

(33,941,)(33,942)

~~(33,941,~~(33,942)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1928

~~No. 632~~

THE FARMERS LOAN AND TRUST COMPANY, AS SOLE SURVIVING EXECUTOR OF THE LAST WILL AND TESTAMENT OF HENRY R. TAYLOR, DECEASED, APPELLANT,

vs.

~~THE STATE OF MINNESOTA~~

No. 633

THE FARMERS LOAN AND TRUST COMPANY, AS SOLE SURVIVING EXECUTOR OF THE LAST WILL AND TESTAMENT OF HENRY R. TAYLOR, DECEASED, APPELLANT,

vs.

THE STATE OF MINNESOTA

APPEALS FROM THE SUPREME COURT OF THE STATE OF MINNESOTA

INDEX

	Original	Print
Record from district court of Ramsey County, case No. 632	1	1
Application to attorney general for determination of tax.	1	1
Findings and determination	8	5

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., MARCH 14, 1929

	Original	Print
Notice of appeal	12	9
Settled case	15	11
Stipulation as to facts	15	11
Exhibit "A"—Bond of city of Minneapolis, Group "A"	27	15
Exhibit "B"—Bond of city of Minneapolis, Group "B"	28	18
Exhibit "C"—Bond of city of St. Paul, Group "C"	32	21
Exhibit "D"—Bond of city of Minneapolis, Group "D"	37	23
Exhibit "E"—Bond of city of Minneapolis, Group "E"	41	25
Exhibit "F"—Bond of city of St. Paul, Group "F"	45	27
Exhibit "G"—Bond of State of Minnesota, Group "G"	49	30
Exhibit "H"—Certificate of indebtedness of State of Minnesota, Group "H"	54	32
Stipulation re hearing on appeal	62	36
Stipulation re settled case	63	37
Order settling case	64	37
Findings of fact, conclusions of law, and order	64	38
Memorandum, Bechhoefer, J	67	40
Notice of appeal	78	47
Proceedings in supreme court of Minnesota	79	48
Assignments of error	79	48
Opinion, Wilson, J	82	50
Petition for reargument	87	54
Order setting cause for reargument	89	55
Opinion, Wilson, J., upon reargument	90	55
Judgment	92	57
Petition for appeal, assignments of error, and prayer for reversal	93	58
Order allowing appeal	97	60
Bond on appeal (omitted in printing)	99	
Citation and service (omitted in printing)	101	
Præcipe for transcript of record	102	62
Certificate of lodgment (omitted in printing)	104	
Clerk's certificate (" " ")	105	
Return to order allowing appeal (" " ")	106	
Record from district court of Ramsey County, case No. 633.	1	63
Judgment	93	64
Notice of appeal	95	65
Stipulation for waiver of bond	96	66
Proceedings in supreme court of Minnesota	97	66
Assignments of error	97	66
Opinion per curiam	101	69
Judgment	102	69

	Original	Print
Petition for appeal, assignments of error, and prayer for reversal	103	70
Order allowing appeal	107	73
Bond on appeal (omitted in printing)	109	
Citation and service (omitted in printing)	111	
Præcipe for transcript of record	112	74
Certificate of lodgment (omitted in printing)	115	
Clerk's certificate (" " ")	116	
Return to order allowing appeal (" " ")	117	
Statement of points to be relied upon and designation as to printing records	118	77

[fols. a-1]

IN DISTRICT COURT OF RAMSEY COUNTY

In the Matter of the Inheritance Tax on the Estate of HENRY R. TAYLOR, Deceased

APPLICATION FOR DETERMINATION OF TAX

To the Attorney General of the State of Minnesota:

The Farmers' Loan and Trust Company, as one of the Executors of the will of the above named decedent, hereby makes application for the determination by you of the amount of inheritance tax, if any, due to the State of Minnesota on account of the transfer of the property owned by the above named decedent at the time of his death and for the issuance of the proper consents to transfer in case no tax is due, and for that purpose submits the following affidavit and evidence.

Dated at New York City, this 23rd day of July, 1926.

(Signed) The Farmers' Loan and Trust Company,
by William B. Cardozo.

Affidavit of William B. Cardozo, Vice President of Farmers' Loan and Trust Company, one of the executors, is attached to application.

I, Henry R. Taylor, of the Borough of Manhattan, City of New York, do make, publish and declare the following as [fol. 2] my last will and testament, having made no prior will.

First. I direct the payment of my just debts, funeral expenses and testamentary charges by my executors as soon as practicable after my death.

Second. I give and bequeath all my personal effects, wardrobe, jewelry, books, silver, pictures, carriages, automobiles, porcelain and effects of every nature and description of personal use, to my brother, Moses Taylor, if he survive me, but if he do not survive me, then I give and bequeath such property to his children, Reginald B. Taylor, Frank Taylor, Marion Taylor and Edith Taylor, or

those of them who may survive me, to be divided among them as nearly equally as practicable. All questions whether any specific articles shall be included in this bequest shall be conclusively determined by my executors.

Third. I give and bequeath the sum of two hundred and fifty thousand dollars ($250,000) to my stepmother, Josephine W. Taylor.

I also give and bequeath the following legacies to the following charitable corporations:

The sum of five hundred thousand dollars ($500,000) to The Society of the New York Hospital, for use at its Bloomingdale Hospital, in White Plains, New York;

The sum of five hundred thousand dollars ($500,000) to Manhattan Maternity and Dispensary;

The sum of five hundred thousand dollars ($500,000) to Loomis Sanatorium;

[fol. 3] The sum of one hundred thousand dollars ($100,000) to New York Eye and Ear Infirmary.

Fourth. In case my brother, Moses Taylor, survive me, I give, devise and bequeath to him all my interest or share in the premises known as Number 3 East Seventy-first Street, in the Borough of Manhattan, City of New York. If he predecease me, such property shall constitute part of my residuary estate.

Fifth. I direct that all inheritance, estate, transfer or succession taxes on the foregoing legacies, devises and bequests be paid out of the capital of my residuary estate.

Sixth. All the rest, residue and remainder of my estate, wheresoever situate and of whatever nature, I direct my executors hereinafter named to divide into equal parts or shares, so that there shall be one equal share for a separate trust for each child living at my death of my brother, Moses Taylor, and of my sister, Harriet Della Gherardesca, by her husband Giuseppe Della Gherardesca, per capita, and one equal share collectively for the issue living at my death of each of said children of my brother or sister who may die before me leaving issue; and I direct my executors to subdivide each share for such issue collectively of such deceased children of my brother and sister into separate or individual shares for each of such issue, per stirpes

and not per capita. I give, devise and bequeath to my trustees, hereinafter named, each separate share directed to be divided and set apart by this my will for the children of [fol. 4] my said brother and said children of my sister living at my death, or such issue of deceased children living at my death, in trust, to invest and reinvest, collect the income thereof, and pay over the net income quarterly to the beneficiary, the child of my brother or sister, or other issue of theirs as aforesaid, for whom such fund is held, free from all debts or engagements of the beneficiary or control of the husband or wife of such beneficiary during the term of the natural life of such beneficiary; and on his or her death the said fund shall be distributed by the trustees in such manner, in such shares and proportions and subject to such terms and provisions as the beneficiary so dying may by last will and testament or instrument in the nature thereof direct and appoint; and in the event of failure to exercise such power of appointment, then to those persons who would be entitled to the same if such beneficiary had died the owner of such share intestate and a resident of the State of New York, and in like shares and proportions.

Seventh. I hereby nominate, constitute and appoint my brother, Moses Taylor, and The Farmers' Loan and Trust Company, a corporation doing business as a trust company in the City of New York as the executors of this my last will and testament, and as trustees of the trusts hereby created, and hereby expressly provide that neither of such executors or trustees be required to give any bond or other security, or surety on bond, for the faithful performance of his or its duties as such executor or trustee in this State [fol. 5] or in any other State or jurisdiction in which they or either of them may act.

Eighth. In case any of the beneficiaries of the trusts hereunder be under the age of twenty-one years at the time of my death, I authorize my trustees, in their discretion, during such minority, to accumulate the income, in whole or in part, for the benefit of such beneficiary who is a minor.

Ninth. Any and all securities and property owned by me at my death may be retained by my executors and trustees

and allotted to any of the trusts or shares hereinbefore provided for, at such valuations as my executors or trustees may deem proper, and the decision of my executors and trustees as to the fair value of such securities and property shall be conclusive upon all persons deriving any interest therefrom under this my will.

My executors and trustees are authorized to divide and make partition of my real estate among those entitled thereto under my will, or as between my estate and other tenants in common.

I authorize my executors and trustees to sell or mortgage any real estate belonging to my estate, whether for the purpose of the division of my estate at any time, or during the term of any trust for the purpose of changing investments, or for any purpose to promote the interests of my estate; and also to lease any such real estate for any period without application to the court for its approval; to make investments in such real estate by improving the same by the erection of buildings or other improve-[fol. 6] ments or replacement of buildings or other improvements; and to release any real estate from the lien of any mortgage either upon payment of a portion of the debt secured by such mortgage or without such payment.

I authorize my executors and trustees to sell any personalty of my estate and the trusts and to invest and reinvest the funds of my estate or of the trusts hereunder in any real estate, securities or stock which they may deem judicious, whether or not such investments be of the character prescribed by law for trust investments; and to change investments of any trust hereunder.

I expressly absolve my executors and trustees from any duty to create a sinking fund out of income to make good to capital any premium which may be paid in the purchase of any investments of my estate.

Any stock dividends declared on securities which may be held in my estate or any of the trusts hereunder shall be treated as principal and not income.

I authorize my executors and trustees to participate in the re-organization of any corporation, securities in which may be held by my estate or trusts thereunder, and take such action in regard thereto as they may be advised.

With respect to any trusts subsisting under this my will, my trustees may account during the trust term by submit-

ting an account of their proceedings to the beneficiary for life, if of full age, and the account shall be deemed settled and adjusted, upon receipt by the trustee or trustees from [fol. 7] the beneficiary of an instrument in writing approving of such account and commissions of the trustees, to the same extent and with the same effect as if such account had been judicially settled and allowed, and such commissions awarded, by a court of competent jurisdiction by judgment or decree binding upon all persons interested in such trust under my will or by operation of law.

In Witness Whereof I have hereunto set my hand and seal this 27th day of June, nineteen hundred and twenty-two.

Henry R. Taylor. (Seal.)

Signed, sealed, published and declared by Henry R. Taylor, the above-named testator, as and for his last will and testament, in the presence of us, who, at his request, in his presence and the presence of one another, have hereto set our names as attesting witnesses, the day and year last above written.

Laurence Millet, Oyster Bay, N. Y. John F. Charlton, 34 Plaza St., Brooklyn, N. Y. Francis Smyth, No. 121 East 71st St., N. Y. City.

[fol. 8] In District Court of Ramsey County

Findings and Determination

Upon due application made to the undersigned by Farmers Loan & Trust Company as representative of the estate of the above named decedent, and from the affidavit of said representative it appears that the decedent died on Dec. 4, 1925, a resident of the state of New York and that the only property of the decedent within the jurisdiction of the State of Minnesota was as follows:

$2,000, face value, City of Minneapolis 4½% Bonds, due May 1, 1926, and interest of the value of	$2,009.65
$6,000 face value City of Minneapolis 4½% Bonds, due May 1, 1927 and interest of the value of	6,048.75

$6,000, face value, City of Minneapolis 4½% Bonds, due May 1, 1928 and interest of the value of 6,066.15

$6,000 face value, City of Minneapolis, 4½% Bonds, due May 1, 1929, and interest of the value of 6,072.15

$6,000 face value, City of Minneapolis 4½% Bonds, due May 1, 1930 and interest of the value of 6,079.95

$6,000, face value, City of Minneapolis 4½% Bonds, due May 1, 1931, and interest of the value of 6,062.35

$6,000, face value, City of Minneapolis 4½% Bonds, due May 1, 1932, and interest of the value of 6,066.15

$6,000, face value, City of Minneapolis 4½% Bonds, due May 1, 1933, and interest, of the value of 6,079.35

$6,000, face value, City of Minneapolis 4½% Bonds, due May 1, 1934, and interest of the value of 6,092.55

$25,000, face value City of Minneapolis 4% Bonds, due November 1, 1939, and interest of the value of 24,254.17

[fol. 9] $50,000, face value City of St. Paul School 4½% Bonds, due January 1, 1954, and interest of the value of 52,366.25

$15,000, face value, City of Minneapolis, 4½% Bonds, due September 1, 1942 and interest of the value of 15,519.38

$35,000, face value, City of Minneapolis, 4½% Bonds, due September 1, 1943, and interest of the value of 36,260.87

$25,000, face value, City of St. Paul 4½% Bonds, due November 1, 1952, and interest of the value of 25,790.62

$50,000, face value, State of Minnesota Rural Credit, 4½% Bonds, due June 1, 1954 and interest of the value of 51,873.75

$25,000, face value, State of Minnesota 5% Bonds, due August 1, 1926, and interest of the value of 25,557.08

$10,000, face value, State of Minnesota 5% Bonds, due August 1, 1927, and interest of the value of	10,303.83
$50,000, face value, State of Minnesota 5% Bonds, due August 1, 1928, and interest of the value of	51,884.16
Five Hundred Twenty Eight Shares (528) of Capital stock of the Minneapolis, St. Paul & Sault Ste. Marie Railway Company as evidenced by Certificate No. — of the value of	10,824.00
Total Value	$355,211.16

Now, Therefore, on such application, representation and evidence, I Find And Determine that said property, at the time of the death of the decedent, was of the above stated value, and that under and pursuant to the terms and conditions of decedent's last will and testament the following named legatees and devisees will receive a legacy or devise payable out of said Minnesota property of the taxable value, and producing the inheritance tax due Minnesota as described below, namely:

[fol. 10]

Legatee		Amount inherited	In excess of exemption	Tax
Josephine W. Taylor	Stranger	$3,917.14	$3,817.14	$190.86
The Society of the New York Hospital		7,834.27	7,734.27	386.71
Manhattan Maternity & Dispensary		7,834.27	7,734.27	386.71
Loomis Sanatorium		7,834.27	7,734.27	386.71
New York Eye & Ear Infirmary		1,566.85	1,466.85	73.34
Reginald B. Taylor	Nephew	34,330.60	33,330.60	1,644.80
Trustees for 3% Class		9,472.37	8,472.37	254.17
Francis Taylor	Nephew	34,734.90	33,734.90	1,675.12
Trustees for 3% Class		9,068.07	8,068.07	242.04
Marion Taylor Gibson	Niece	35,103.41	34,103.41	1,702.76
Trustees for 3% Class		8,699.56	7,699.56	230.99
Edith Taylor Huntington	Niece	35,275.29	34,275.29	1,715.65
Trustees for 3% Class		8,527.67	7,527.67	225.83
Charlotte Della Gherardesca	Niece	35,439.55	34,439.55	1,727.97
Trustees for 3% Class		8,363.42	7,362.42	220.87
Clarice Della Gherardesca	Niece	36,155.69	35,155.69	1,781.68
Trustees for 3% Class		7,647.27	6,647.27	199.42
		$291,804.60	$279,304.60	
Total Tax				$13,045.63

[fol. 11] I further Find that the State of Minnesota is entitled to have and receive from the estate of said decedent, and the legatees and beneficiaries above named, the total tax of Thirteen Thousand Forty Five Dollars and Sixty Three Cents ($13,045.63) as an inheritance tax upon said Minnesota property so transferred to said legatees; which said tax bears interest at the rate of seven per cent. per annum from one year after said decease if not previously paid.

I Further Find And Determine that no other person or corporation receives any share of said property as a legacy or inheritance exceeding in value the amount which is exempt from an inheritance tax.

In Witness Whereof, I have hereunto subscribed my name and affixed by official seal, at the City of St. Paul, State of Minnesota, this 27th day of August, 1926.

Albert F. Pratt, Assistant Attorney General in Charge of Inheritance Tax Matters. (Seal.)

[fol. 12] In District Court of Ramsey County

Notice of Appeal

You will please take notice that the executors of the estate of Henry R. Taylor, deceased, being aggrieved by the findings and determination made in the above entitled matter on the 27th day of August, 1926, hereby object thereto upon the following grounds:

1. That the bonds listed and described in said findings and determination were and are bonds of cities of the State of Minnesota and of the State of Minnesota and were and are bearer bonds and were at the time of the death of said decedent physically without the State of Minnesota and without its taxable jurisdiction and said bonds and their transfer were not and are not subject to the inheritance tax law of the State of Minnesota. That said bonds were bequeathed and transferred under and by the terms of said decedent's will by virtue of and pursuant to the laws of New York wherein said decedent had his domicile and residence at the date of his death.

2. That said findings and determination and the action of the State of Minnesota in attempting to impose an inheritance tax upon the transfer of said bonds or any of [fol. 13] them are in violation of the provisions of Section 1 of the Fourteenth Amendment to the Constitution of the United States and are in contravention of the due process clause of said amendment.

3. That said findings and determination and the said action of the State of Minnesota impairs the obligation of contracts in violation of Section 10 of Article I of the Constitution of the United States and of Section 11 of Article 1 of the Constitution of Minnesota.

4. That in said findings and determination it was erroneously found and determined that there was due as an inheritance tax upon the transfer of or succession to the property listed therein the sum of Thirteen Thousand Forty Five Dollars and Sixty Three Cents ($13,045.63).

You Will Further Please Take Notice that said executors hereby appeal to the District Court of Ramsey County, Minnesota, from said findings and determination and from each and every part thereof and respectfully pray that said District Court set aside said findings and determination and the taxes assessed thereunder and that said Court direct and require such correction, amendment or modification as [fol. 14] may be consistent with the facts in the premises.

Moses Taylor, The Farmers' Loan and Trust Company, Executors of the Estate of Henry R. Taylor, by Davis, Severance & Morgan, 1512 Merchants National Bank Bldg., St. Paul, Minnesota. Cadwalader, Wickersham & Taft, New York City, Attorneys for said Executors.

To Hon. Clifford L. Hilton, Attorney General of the State of Minnesota; Hon. Albert F. Pratt, Assistant Attorney General of Minnesota in Charge of Inheritance Tax Matters.

Dated September 14, 1926.

[fol. 15] IN DISTRICT COURT OF RAMSEY COUNTY

Settled Case

On Appeal from Findings and Determination of the Attorney General

STIPULATION AS TO FACTS

The parties in the above entitled matter hereby stipulate the following facts, subject to the objection by either party as to materiality or relevancy:

1. The above named Henry R. Taylor (hereinafter called "decedent") died a resident of the state of New York on December 4, 1925, leaving a last will and testament which has been duly proved and allowed as such in the surrogates court of the county of New York and state of New York. Letters testamentary on said will were duly issued by said court to Moses Taylor of Portsmouth, Rhode Island, and to the Farmers Loan and Trust Company, a corporation organized and existing under the laws of the state of New York, and which maintains its principal office in New York City, New York.

2. For a long time prior to and at the date of the death of said decedent, he owned, held and kept in New York, the state of his residence and domicile, the following Minnesota state certificates of indebtedness and Minnesota state and city bonds:

[fol. 16]

Face value	Description	Value on Dec. 4, 1925	Accrued interest Dec. 4, 1925	Total
	Group A			
$2,000	City of Minneapolis.....	$2,001.40	$8.25	
6,000	" " "	6,024.00	24.75	
6,000	" " "	6,041.40	24.75	
6,000	" " "	6,047.40	24.75	
6,000	" " "	6,055.20	24.75	
6,000	" " "	6,027.60	24.75	
6,000	" " "	6,041.40	24.75	
6,000	" " "	6,054.60	24.75	
6,000	" " "	6,067.80	24.75	
	Group B			
25,000	City of Minneapolis.....	24,162.50	91.67	
	Group C			
50,000	City of St. Paul.....	51,410.00	956.25	

Face value	Description	Value on Dec. 4, 1925	Accrued interest Dec. 4, 1925	Total
	Group D			
15,000	City of Minneapolis.....	15,345.00	174.38	
	Group E			
35,000	City of Minneapolis.....	35,854.00	406.87	
	Group F			
25,000	City of St. Paul.....	25,687.50	103.12	
	Group G			
50,000	State of Minnesota.....	51,855.00	18.75	
	Group H			
25,000	State of Minnesota.....	25,130.00	427.08	
10,000	" " "	10,133.00	170.83	
50,000	" " "	51,030.00	854.16	
$335,000		$340,967.80	$3,409.36	$344,377.16

[fol. 17] The above described bonds and certificates of indebtedness are the same bonds and certificates of indebtedness as those set forth in the findings and determination of the attorney general of Minnesota in this proceeding.

At no time since said bonds and certificates of indebtedness have been owned by said decedent have they or any of them been held or kept in the state of Minnesota.

Attached hereto and made a part of this stipulation are the following exhibits:

Exhibit A, being a true copy of one of the bonds of the city of Minneapolis included in Group A of the foregoing list of bonds and certificates of indebtedness and identical with all the bonds in said Group A except as to serial number and date of maturity.

Exhibit B, being a true copy of the bonds of the city of Minneapolis constituting Group B of the foregoing list of bonds and certificates of indebtedness.

Exhibit C, being a true copy of the bond of the city of St. Paul constituting Group C of the foregoing list of bonds and certificates of indebtedness.

Exhibit D, being a true copy of one of the bonds of the city of Minneapolis included in Group D of the foregoing list of bonds and certificates of indebtedness and identical with all the bonds in said Group D except as to serial number.

Exhibit E, being a true copy of one of the bonds of the city of Minneapolis included in Group E of the foregoing list of bonds and certificates of indebtedness and identical [fol. 18] with all the bonds in said Group E, except as to serial number and except that one of said bonds is a sewer bond instead of a school bond.

Exhibit F, being a true copy of one of the bonds of the city of St. Paul included in Group F of the foregoing list of bonds and certificates of indebtedness and identical with all the bonds in said Group F except as to serial number.

Exhibit G, being a true copy of one of the bonds of the state of Minnesota included in Group G of the foregoing list of bonds and certificates of indebtedness and identical with all the bonds in said Group G except as to serial number.

Exhibit H, being a true copy of one of the certificates of indebtedness of the state of Minnesota included in Group H of the foregoing list of bonds and certificates of indebtedness and identical with all the certificates of indebtedness in said Group H except as to serial number and date of maturity.

3. The State of Minnesota, the city of St. Paul and the city of Minneapolis each maintained prior to and on December 4, 1925, a financial or fiscal agency in the city of New York, state of New York, as referred to in the several bonds and certificates hereinbefore described.

4. The attorney general of Minnesota, in determining the amount and value of that portion of said decedent's property passing to the several residuary legatees named in said will, upon the transfer of which said attorney gen- [fol. 19] eral asserts that the state of Minnesota imposes an inheritance tax as set forth in his findings and determination, has not deducted or made any allowance for or in any wise allocated to such property any part of the following items:

(a) The money paid or to be paid to the state of decedent's domicile at his death, viz: the state of New York, as a tax upon the transfer of said decedent's property upon his death, which property included all the property upon the transfer of which the attorney general in this proceeding has determined a tax to be due to the state of Minne-

sota; the amount of said New York transfer taxes is at present undetermined but was estimated to be $2,879,386.80 by the said Farmers Loan and Trust Company, one of the executors of said decedent's will, in its application to the attorney general of Minnesota for a determination of the Minnesota inheritance taxes.

(b) The money paid or to be paid to various states (other than the states of New York and Minnesota) as inheritance taxes upon the transfer of such of decedent's property as had a situs in said states or the transfer of which was within their jurisdiction; the amount of said inheritance taxes was estimated to be $100,000.00 by said executor in the application referred to above, but since the filing of said application said taxes have been assessed by [fol. 20] said various states in the following amounts:

Kansas	$342.25
Illinois	292.46
Ohio	17,475.91
Michigan	7,954.86
Wisconsin	7,824.06
Virginia	3,237.25
New Jersey	34,296.36
New Hampshire	408.33
Maine	150.00
Rhode Island	455.43
North Dakota	303.21
	$72,740.12

All of said taxes so assessed have been paid in said several amounts except the taxes assessed by the state of Ohio.

(c) The money to be paid as trustees' commissions for the carrying out of the trusts established by said decedent's will; the amount of said trustees' commissions is at present undetermined, but was estimated to be $600,219.06 by said executor in the application referred to above.

5. A full, true and correct copy of the last will of said decedent as on file herein is made a part hereof.

6. If and whenever in this proceeding it shall become material for the court to determine the law of the state of New York or of any other state, the court may consider as evidence of such law any printed copies of the statute [fol. 21] laws of such states and any books of reports of cases adjudged in the courts of such states in the same manner as though said printed copies of the statute laws and said books of reports of cases were introduced and admitted in evidence in this proceeding.

Dated this 8th day of July, 1927.

Clifford L. Hilton, Attorney General of the State of Minnesota; Albert F. Pratt, Assistant Attorney General in Charge of Inheritance Tax Matters, Attorneys for the State of Minnesota. Cadwalader, Wickersham & Taft, Davis, Severance & Morgan, Attorneys for Appellants, the Executors of the Last Will and Testament of Henry R. Taylor.

[fol. 22] EXHIBIT "A"

State of Minnesota

No. 1015. $1,000.00.

City of Minneapolis

Street Improvement Bond

Special Street Acquisition and Improvement No. 59

The City of Minneapolis, in the County of Hennepin, State of Minnesota, for value received hereby certifies that it is indebted and hereby promises to pay to bearer the sum of one thousand dollars ($1,000.00) on the First Day of May, A. D. 1928, with interest thereon at the rate of Four and One-Half Per Centum per annum, payable semi-annually on the First Days of May and November of each year on the presentation and surrender of the respective coupons hereto attached as they severally become due, both principal and interest being payable in gold coin of the United States of America of the present standard of weight and fineness at the fiscal agency of said City, in the City of New York, N. Y., or at the Treasurer's office in the City of Minneapolis, at the option of the holder hereof.

This bond is one of a series aggregating One Hundred Twenty-one Thousand Six Hundred Twenty and 50-100 Dollars ($121,620.50), par value, maturing at various annual dates from May 1, 1915, to May 1, 1934, issued for the purpose of realizing funds for acquiring lands and making improvements in the matter of acquiring lands for [fol. 23] laying out, widening and opening Ninth Street, North, from Hennepin Avenue to First Avenue, North, in the City of Minneapolis, and improving the same, the same being Special Street Acquisition and Improvement No. 59, sixty-six and two-thirds per cent of the above aggregate sum being assessed for benefits against property benefited by said improvements under the provisions of Chapter 185 of the General Laws of Minnesota, 1911, as amended by Chapter 345 of the General Laws of Minnesota, 1913, under the provisions of which this bond is issued, and the whole fund to be derived from the said assessments for benefits, including interest and penalties, is pledged for the payment of the said series of bonds, and the interest thereon as they severally become due in the form and manner authorized by law, and the said City of Minneapolis hereby binds itself to collect and apply the said assessments in the payment of the said series of bonds, including this bond, and to make good from the general funds any deficiencies in the collection of such assessments up to but not exceeding the principal and interest of this bond as provided in the laws aforesaid, and further binds itself in addition to said assessments and guaranty, to levy, assess and collect in the same manner as other taxes of said City are levied, assessed and collected, from year to year while said bonds or any of them are outstanding and unpaid, a sufficient tax on all the taxable property of said City to pay thirty-three [fol. 24] and one-third per cent of the aggregate amount of the said issue with interest.

It is hereby certified, recited and declared that all acts, conditions and things, required to exist, happen and be performed precedent to and in the issuance of this bond, have existed, happened and been performed in regular and due time, form and manner as required by law, and that this bond and the issue of which it is a part, are within every debt and other limit prescribed by the Constitution and Laws of the State of Minnesota. The full faith and

credit of the City of Minneapolis are hereby pledged for the punctual payment of this bond according to its tenor.

This bond may be registered, the registry to be certified hereon by the City Comptroller, and is subject to successive registrations or transfers at the option of the holder. The coupons may be separated from this bond and surrendered to the City Comptroller for cancellation, in which case the interest will be paid to the registered holder or order.

In testimony whereof, the said City of Minneapolis, acting by and through its City Council, has caused this Street Improvement Bond to be signed by the Mayor of said City, countersigned by the City Comptroller and attested by the City Clerk thereof and the corporate seal of the said City to be hereto affixed, and the coupons hereto attached to be executed with the fac-simile signatures of said Mayor, City [fol. 25] Clerk and City Comptroller, and this bond to be dated the First day of May, 1914.

City of Minneapolis, by W. G. Nye, Mayor.

Attest: Henry N. Knott, City Clerk.
Countersigned: Dan C. Brown, City Comptroller.
Registered No. 3511.
Registered No. 3287.
Registered No. 61.

Registration

This bond may be registered in the owner's name in the office of the City Comptroller, in the City of Minneapolis, such registration being noted upon the bond by said Comptroller after which no transfer shall be valid unless made upon the Comptroller's books by the registered owner and similarly noted on the bond, but the same may be discharged from registration by being transferred to bearer and the transfer to bearer being noted hereon, after which it shall be transferable by delivery, but it may be again registered as before. The registration of this bond shall not restrain the negotiability of the coupons deliv- [fol. 26] ered, but the coupons may be surrendered and the interest made payable only to the registered holder of this bond.

Date of registration	In whose name registered	City comptroller
	[The Williamsburg Savings Bank.]*	
[Jul. 17, 1914.	Brooklyn, N. Y.]*.....	[Dan C. Brown.]*
[Apr. 18, 1917.	Kountze Bros., New York, N. Y.; Henry A. C. Taylor, Esq.]*.....	[Dan C. Brown.]*
[May 15, 1917.	New York City]*.....	[Dan C. Brown.]*
	Registered No. 4168	
Feb. 27, 1922.	Henry R. Taylor, N. Y.....	Dan. C. Brown.

In accordance with the provision in this bond, the coupon sheet attached hereto has been surrendered by the holder of this bond and the coupons have been cancelled by the City Comptroller. Semi-annual interest on this bond is hereafter to be paid to the registered holder or owner upon the proper acknowledgment of the receipt thereof.

Dated Minneapolis, Minnesota, July 17, 1914.

Dan C. Brown, City Comptroller.

4687, May 4, 1927, Charles S. Shaw, New York.

Dan C. Brown, City Comptroller.

[fol. 27] Endorsement: Registered No. 1015. State of Minnesota, City of Minneapolis, Street Improvement Bond. Special Street Acquisition and Improvement No. 59. $1,000.00. 4½%. Dated May 1, 1914. Due May 1, 1928. Interest Payable Semi-Annually on May 1st and November 1st at the Fiscal Agency of the City of Minneapolis in the City of New York.

[fol. 28] EXHIBIT "B"

United States of America, State of Minnesota, City of Minneapolis

No. 2092. $25,000-00/100.

Whereas Henry R. Taylor of New York City, State of New York, has surrendered to the City Comptroller of the City of Minneapolis, $25,000-00/100 bonds of said City of the denomination of one thousand dollars each issued for Main Sewers under authority of chapter 262, General laws

---

[*Words and figures enclosed in brackets erased in copy.]

of Minnesota of the year 1913 and resolution of the City Council of said City approved Nov. 5, 1913, dated Nov. 1, 1913, payable Nov. 1, 1939, and numbered 20811 to 20815, 20821 to 20832, & 20846 to 20853 incl. and has made application to exchange said bonds into registered bonds of the City of Minneapolis. Therefore; Know all men by these presents that the City of Minneapolis acknowledges itself indebted, held and firmly bound to the same extent and in the same manner as held and bound by the coupon bonds above described unto the said Henry R. Taylor of New York City, State of New York, in the sum of Twenty-five Thousand (25,000) Dollars which sum the said City of Minneapolis promises to pay at the fiscal agency of said City in the City of New York on the first day of Nov., 1939, together with interest at the rate of 4 per cent per annum [fol. 29] which interest shall be payable semi-annually on the 1st day of May and the 1st day of Nov. each year at fiscal agency until the payment in full of said principal sum. This bond is issued under and pursuant to a resolution of the City Council of the City of Minneapolis, approved April 15th, 1897.

In testimony whereof, and in pursuance of said resolution the bond is signed by the Mayor, countersigned by the City Comptroller and attested by the City Clerk of said City and the corporate seal of said City attached this 21st day of November, A. D. 1921.

George E. Leach, Mayor.

Attest: Henry N. Knott, City Clerk.

Countersigned: Dan C. Brown, City Comptroller.

To the Comptroller of the City of Minneapolis:

You will please transfer the within registered bond to —— ——.

—— ——, Holder of Bond.

Witness: —— ——.

[fol. 30] To the Comptroller of the City of Minneapolis:

You will please transfer the within registered bond to —— ——.

—— ——, Holder of Bond.

Witness: —— ——.

(Endorsement:) No. 2092. $25,000-00/100. Registered Bond of the City of Minneapolis, Minnesota. Issued in exchange for Coupon Bonds numbered 20811 to 20815, 20821 to 20832, and 20846 to 20853 incl. Interest 4 per cent per annum. Interest payable M. and N.

Resolution Authorizing and Empowering the City Comptroller to Register Bonds of the City of Minneapolis

Resolved by the City Council of the City of Minneapolis:

That in pursuance of an act of the legislature of the State of Minnesota, approved February 26th, 1897, entitled, [fol. 31] "An Act to Provide for the Registration of Municipal Bonds of the Cities of this State," the City Comptroller be and he is hereby authorized and empowered to register any of the bonds of said City which have been or hereafter may be issued on the request of the persons owning and holding the same or the person or owner to whom the same may be hereafter issued.

In all such cases when the bonds are returned to him to be registered or are registered when issued, the said City Comptroller is hereby empowered to and it shall be his duty to cancel all bonds so returned together with the unpaid coupons thereon, and issue in lieu thereof a certificate or certificates of registration amounting to the face value of such bonds, which certificates shall be in the following form: * * *

And the Mayor and City Clerk of the City of Minneapolis are hereby authorized and directed to sign and attest respectively such certificates of registration upon application of the City Comptroller, and the City Comptroller is hereby directed to countersign such certificates and deliver the same upon surrender of the coupon bonds for which they are to be exchanged, and to transfer such certificates from time to time at the request of the owner or owners of the same.

Passed, April 9th, 1897. Approved, April 15th, 1897.

[fol. 32] EXHIBIT "C"

United States of America, State of Minnesota, County of Ramsey, City of St. Paul

Registered Bond Issued in Lieu of a Like Amount of Coupon Bonds

Number 672. $50,000.00 Dollars.

Whereas, pursuant to the provisions of an Act of the Legislature of the State of Minnesota entitled: "An Act to provide for the registration of municipal bonds of the cities of this state," approved February 26, 1897 (being Chapter 22 of the Laws of Minnesota for 1897) and a resolution of the Common Council of the City of St. Paul, Minn., approved October 8, 1903, there have been surrendered to the City Comptroller of said City, for the purpose of having this registered bond issued in lieu thereof, the following described Coupon Bond of said City, to-wit, Coupon Bond numbered 19536 to 19585 inclusive, of the denomination of $1,000 each, bearing date of January 1, 1924, and maturing January 1, 1954, issued for the purpose of acquiring school sites and grounds, remodeling existing school buildings, constructing new school buildings, and providing permanent equipment therefor, under authority of Chapter —, [fol. 33] Sec. 217, City Charter Ord. 5885, app. 10/4/22, ratified 11/7/22, of the Laws of Minnesota for —— and a resolution or ordinance of the Council of said City, approved November 20, 1923, bearing interest at the rate of 4½ per centum per annum, payable semi-annually.

Now, therefore, the City of St. Paul, in the County of Ramsey and State of Minnesota, for value received hereby acknowledges itself to owe and to be firmly held and bound to the same extent and in the same manner as it was held and bound by the Coupon Bond above described to pay to Henry R. Taylor of New York, N. Y., the principal sum of Fifty Thousand Dollars ($50,000) on January 1, A. D. 1954, together with interest on said sum until paid at the rate of 4½ per centum per annum, payable semi-annually on the First days of July and January in each year; both principal and interest payable in lawful money of the United States of America, at the fiscal agency of said City in the City and State of New York.

This bond is transferable only on the registration books of said City of St. Paul, by the registered owner hereof in person or by duly authorized attorney upon surrender of this bond to the City Comptroller of said City, properly endorsed.

In case this bond is issued in lieu of more than one Coupon Bond, the registered owner hereof, or his assigns, may, in person or by duly authorized attorney surrender this Bond to the City Comptroller of said City properly en- [fol. 34] dorsed, and receive in lieu thereof two or more registered bonds, aggregating the same amount as this bond, but each of such new registered bonds shall be of the denomination of one of the Coupon Bonds originally surrendered, or some multiple thereof and shall designate the particular Coupon Bond or bonds which it represents.

In testimony whereof, and in pursuance of said Act of the Legislature of the State of Minnesota, approved February 26, 1897, and said resolution of the Common Council of the City of St. Paul, approved October 8, 1903, the corporate seal of said City has been hereto affixed and this bond signed by the Mayor, countersigned by the City Comptroller, and attested by the City Clerk of said City, this Seventh day of February, A. D. 1924.

Arthur E. Nelson, Mayor.

Countersigned: E. M. Skipton, City Comptroller.

Attest: Harry Olson, City Clerk.

[fol. 35] (Endorsement:) 672. Registered bond, $50,000.00, of the City of St. Paul. Issued to Henry R. Taylor. Dated February 7, 1924. For value received — hereby sell, assign, and transfer unto —— —— all — right, title and interest in and to — of the within Registered Bond, and do hereby irrevocably constitute and appoint —— —— Attorney to make the necessary transfer thereof on the registration books of the City of St. Paul, Minnesota. —— ——. Dated —— —, ——. In presence of —— ——.

Resolution Authorizing Certificates

A'y F No. 7238

Resolved, that the Mayor, Comptroller and City Clerk be and they are hereby authorized to issue registered bonds

of the City of St. Paul in exchange for any or all coupon bonds of said City which have heretofore been issued, upon request of the holder of such coupon bonds, and in such de-
[fol. 36] nominations as such holder may request; such exchange to be made at the office of the City Comptroller and the same to be done under the direction and supervision of the Sinking Fund committee; the manner of cancellation of such surrendered coupon bonds and the form of such registered bonds to be prescribed by said Sinking Fund Committee, as provided in the charter of said City; and the City Treasurer is authorized to pay current interest on such registered bonds by check on New York or St. Paul, as the owner may desire; provided, however, that said registered bonds so issued shall not incur any new liability on the City or extend the time of maturity of the coupon bonds for which they are exchanged, but shall only bind the City in the same manner and to the same extent as bound by said coupon bonds, all as provided in and by Chapter 22 of the Laws of Minnesota for the year 1897.

Adopted by the Assembly Oct. 1, 1903.
Adopted by the Board of Aldermen, Oct. 6, 1903.
Approved Oct. 8, 1903.

[fol. 37] EXHIBIT "D"

Number 42079. 1,000 Dollars.

United States of America, State of Minnesota, County of Hennepin, City of Minneapolis

School Bond

Know all men by these presents that the City of Minneapolis in the County of Hennepin and State of Minnesota, hereby acknowledges itself to owe and for value received promises to pay to bearer, the sum of one thousand dollars ($1,000) in lawful money of the United States of America on the first day of September, 1942, with interest thereon at the rate of four and one-half per cent (4½%) per annum, from the date hereof until paid, payable semi-annually on the first day of March and of September in each

year upon presentation and surrender of the annexed interest coupons as they severally become due and payable, both principal and interest payable at the Fiscal Agency of the City of Minneapolis, in the city and state of New York, or at the City Treasurer's Office, Minneapolis, Minnesota, at the option of the holder.

For the prompt payment of this bond, both principal and interest as aforesaid, the full, faith and credit of said city are hereby irrevocably pledged.

This bond is issued for the purpose of providing funds for the use of and to be used by the Board of Education [fol. 38] of the City of Minneapolis in the erection, construction and equipment of public school buildings and additions thereto, and for the acquisition of school sites in the city of Minneapolis, and pursuant to and in all respects in compliance with Chapter XV of the Charter of the City of Minneapolis, adopted November 2, 1920, and all acts supplemental thereto, and resolutions duly adopted by the City Council and by the Board of Estimate and Taxation of said City.

And it is hereby certified and recited that all conditions, things and acts required by law to exist, to be or to be done precedent to and in the issuance of this bond have been, have existed, and have been performed in due form and time as required by law, that the indebtedness of said City, including this bond, does not exceed any limitation imposed by law.

In witness whereof the City of Minneapolis, by its City Council and Board of Estimate and Taxation has caused this bond to be signed by its Mayor and City Clerk under the City corporate seal and countersigned by the President of the Board of Estimate and Taxation and by the City Comptroller, and the coupons hereto attached to be signed by said Mayor and City Clerk and countersigned by the President of the Board of Estimate and Taxation and by the City Comptroller by their respective facsimile signatures, and said officers by the execution of this bond do adopt as and for their respective proper signatures their [fol. 39] respective facsimile signatures appearing on said coupons, this first day of September, 1922.

George E. Leach, Mayor; Henry N. Knott, City Clerk, and Dan C. Brown, City Comptroller.

Countersigned: C. F. Keyes, President Board of Estimate and Taxation

$22.50. March 1st, 1927.

On the First day of March, 1927, the City of Minneapolis, Hennepin County, Minnesota, will pay to bearer, Twenty-two and 50/100 Dollars ($22.50) at the Fiscal Agency of the City of Minneapolis in New York City, or at the City Treasurer's Office, Minneapolis, Minnesota, at the option of the holder for interest due that date on its School Bond, dated September 1, 1922.

Coupon Number 9, Bond No. 42079.

George E. Leach, Mayor; Henry N. Knott, City Clerk, and Dan C. Brown, City Comptroller.

[fol. 40] Countersigned: C. F. Keyes, President Board of Estimate and Taxation.

(Coupons 10 to 30 inclusive follow in like amount.)

(Endorsement:) United States of America. No. 42079. State of Minnesota, County of Hennepin, City of Minneapolis. School bond. 1,000. 4½ per cent. Dated September 1, 1922, interest payable March 1, and September 1. Payable at the Fiscal Agency of the City of Minneapolis, in the City and State of New York, or at the City Treasurer's Office, Minneapolis, Minnesota.

[fol. 41] EXHIBIT "E"

Number 42094. 1,000 Dollars.

United States of America, State of Minnesota, County of Hennepin, City of Minneapolis

School Bond

Know all men by these presents that the City of Minneapolis, in the County of Hennepin and State of Minnesota, hereby acknowledges itself to owe and for value received promises to pay to bearer, the sum of one thousand dollars ($1,000) in lawful money of the United States of America

on the first day of September, 1943, with interest thereon at the rate of four and one-half per cent (4½%) per annum, from the date hereof until paid, payable semi-annually on the first day of March and of September in each year upon presentation and surrender of the annexed interest coupons as they severally become due and payable, both principal and interest payable at the Fiscal Agency of the City of Minneapolis, in the City and State of New York, or at the City Treasurer's Office, Minneapolis, Minnesota, at the option of the holder.

For the prompt payment of this bond, both principal and interest as aforesaid, the full faith and credit of said city are hereby irrevocably pledged.

This Bond is issued for the purpose of providing funds for the use of and to be used by the Board of Education of [fol. 42] the City of Minneapolis in the erection, construction and equipment of public school buildings and additions thereto, and for the acquisition of school sites in the City of Minneapolis, and pursuant to and in all respects in compliance with Chapter XV of the Charter of the City of Minneapolis, adopted November 2, 1920, and all acts supplemental thereto, and resolutions duly adopted by the City Council and by the Board of Estimate and Taxation of said City.

And it is hereby certified and recited that all conditions, things and acts required by law to exist, to be or to be done precedent to and in the issuance of this bond have been, have existed, and have been performed in due form and time as required by law, that the indebtedness of said City, including this bond, does not exceed any limitation imposed by law.

In witness whereof, the City Minneapolis, by its City Council and Board of Estimate and Taxation has caused this bond to be signed by its Mayor and City Clerk under the City corporate seal and countersigned by the President of the Board of Estimate and Taxation and by the City Comptroller, and the coupons hereto attached to be signed by said Mayor and City Clerk and countersigned by the President of the Board of Estimate and Taxation and by the City Comptroller by their respective facsimile signatures, and said officers by the execution of this bond do adopt as and for their respective proper signatures their

[fol. 43] respective facsimile signatures appearing on said coupons, this first day of September, 1922.

George E. Leach, Mayor; Henry N. Knott, City Clerk, and Dan C. Brown, City Comptroller.

Countersigned: C. F. Keyes, President Board of Estimate and Taxation.

Coupon Number 9, Bond No. 42094

$22.50. March 1, 1927.

On the first day of March, 1927, the City of Minneapolis, Hennepin County, Minnesota, will pay to bearer, Twenty-two and 50/100 Dollars ($22.50) at the Fiscal Agency of the City of Misneapolis in New York City, or at the City Treasurer's office, Minneapolis, Minnesota, at the option [fol. 44] of the holder, for interest due that date on its School Bond, dated September 1, 1922.

George E. Leach, Mayor; Henry N. Knott, City Clerk, and Dan C. Brown, City Comptroller.

Countersigned: C. F. Keyes, President Board of Estimate and Taxation.

(Coupons 10 to 42, inclusive, in like amount, follow.)

(Endorsement:) No. 42094. United States of America, State of Minnesota, County of Hennepin, City of Minneapolis. School Bond. 1,000. 4½ per cent. Dated September 1, 1922. Principal due September 1, 1943. Interest payable March 1 and September 1. Payable at the Fiscal Agency of the City of Minneapolis, in the City and State of New York, or at the City Treasurer's Office, Minneapolis, Minnesota.

[fol. 45] EXHIBIT "F"

United States of America, State of Minnesota, County of Ramsey, City of Saint Paul

School Bond

Number 13761. 1,000.00 Dollars.

Know all men by these presents, That the City of St. Paul, in the County of Ramsey and State of Minnesota, ac-

knowledges itself to owe and for value received hereby promises to pay bearer the sum of One Thousand Dollars ($1,000.00) on the first day of November, 1952, together with interest thereon from the date hereof until paid at the rate of four and one-half per cent per annum, payable semi-annually on the first days of May and November in each year as evidenced by and upon the presentation and surrender of the annexed interest coupons as they severally become due. Both principal and interest of this bond are payable in lawful money of the United States of America at the Office of the Commissioner of Finance or at the Financial Agency of the City of St. Paul in the City of New York, State of New York; and for the prompt payment of this bond, both principal and interest, at maturity, the faith and credit of the City of St. Paul is hereby pledged irrevocably.

This bond is one of a series of like date and tenor, except [fol. 46] as to rate of interest, amounting in the aggregate to the sum of One Million Dollars ($1,000,000), issued by the City for the purpose of erecting permanent school buildings. This bond is issued pursuant to an Ordinance No. 3885, passed by the Council of said City and duly signed, attested, approved and published in the manner required by the Charter of said City, and approved by the electors of the City of St. Paul at the special election held June 18, 1917, as amended by Council File No. 28655, being Ordinance No. 5277, approved April 14, 1920, and ratified by the electors of said City at the general election held May 4, 1920, also a resolution of the Council No. 42230 duly passed and approved October 9 1922, and under authority of and in all respects in full compliance with Section 217 of the Charter of the City of St. Paul, and such other sections thereof as may be applicable thereto.

It is hereby certified and recited, That all things, acts and conditions required by the constitution and laws of the State of Minnesota and the Charter of said City to happen and be done and performed precedent to and in the issuance of this bond have happened and been done and performed in regular and due form and time as required by law, and that the total indebtedness of said City, including this bond, does not exceed any constitutional or charter limitations.

In witness whereof the said City of St. Paul, by its Council has caused this bond to be sealed with its corporate seal, to be signed by its Mayor, attested by its City Clerk and [fol. 47] countersigned by its Comptroller, and each of the interest coupons hereto attached to be executed by the lithographed facsimile signature of said officers this first day of November, A. D. 1922.

Arthur E. Nelson, Mayor.

Countersigned: Jesse Foot, Comptroller.
Attest: Henry Olson, City Clerk.

No. 9. City of Saint Paul $22.50.

No. 13761

On the first day of May, 1927, the City of St. Paul, Minnesota, promises to pay to bearer Twenty-two Dollars and Fifty Cents at the office of the Commissioner of Finance, or at the Financial Agency of the City of St. Paul, in the City of New York, State of New York, for interest due that day on its School Bond, dated Nov. 1, 1922.

Arthur E. Nelson, Mayor.

Attest: Henry Olson, City Clerk.

[fol. 48] Countersigned: Jesse Foot, Comptroller.

(Coupons 10 to 60, inclusive, in like amount, follow.)

(Endorsement:) 13761. United States of America, State of Minnesota, County of Ramsey, City of Saint Paul. School Bond. $1,000. 4½%. Dated November 1, 1922. Principal Due November 1, 1952. Interest payable semi-annually, May 1st and November 1st, at the office of the Commission of Finance, in the City of St. Paul, or at the financial agency of the City of St. Paul, in the City of New York, State of New York.

[fol. 49] EXHIBIT "G"

United States of America, State of Minnesota

The Great Seal of the State of Minnesota, 1858

Rural Credit Bond, Direct Obligation of State

Number 22239. $1,000. Number 22239.

The State of Minnesota, for value received acknowledges itself to be indebted and promises to pay to bearer or in case of registration hereof to the registered holder, the sum of one thousand dollars, on the first day of June, 1954, and to pay interest thereon at the rate of four and one half (4½) per centum per annum, payable semi-annually on the 1st days of June and December in each year on the presentation and surrender of the respective coupons hereto attached as they severally become due, both principal and interest of this bond, being payable in lawful money of the United States, at the office of the State Treasurer, St. Paul, Minnesota, or at the option of the holder at the Merchants National Bank, St. Paul, Minnesota, or at the Bankers Trust Company, New York, N. Y., or at such other bank or Trust Company as may be appointed by said State in said cities of St. Paul or New York. In case of registration the prin-[fol. 50] cipal and interest hereof will be paid to the registered holder in New York or Chicago exchange. This bond is issued under and pursuant to and in strict conformity with the Constitution and laws of the State of Minnesota, including among others, Article IX, Section 10 of the Constitution, as amended, and Chapter 225, Laws of Minnesota 1923, for the purpose of raising money for the use of the Rural Credit Fund of said State to be loaned and disbursed as directed in the said statute. This bond may be registered, the registration to be certified hereon by the State Treasurer and is subject to successive registrations and transfers at the option of the holder. The coupons may be separated from this bond and surrendered to the State Treasurer for cancellation, in which case the interest will be paid to the registered holder or order. This bond is exempt from all general taxes, State, County and Municipal and is not subject to State Income Tax. It is hereby cer-

tified, recited and declared that all acts, conditions and things required to exist, happen and be performed, precedent to and in issuance of this bond have existed, happened and been performed in due time, form and manner as required by law and that this bond and the issue of which it forms a part together with all other indebtedness of said State does not exceed any constitutional or statutory limitations of indebtedness. The full faith, credit and resources of the State of Minnesota hereby are irrevocably pledged [fol. 51] for the prompt and punctual payment of the principal and interest of this bond.

In witness whereof, the State of Minnesota by its Rural Credit Bureau has caused this bond to be issued under the Great Seal of the State, and to be signed by the Chairman of said Bureau in behalf of the Bureau and attested by the Secretary of State of Minnesota, the form thereof having been approved by the Attorney General of said State the coupons attached to bear the fac-simile signatures of the said Chairman and Secretary of State and this bond to be dated the first day of June, 1924.

Minnesota Rural Credit Bureau, by Edwin J. Oppliger, Chairman.

Attest: Mike Holm, Secretary of State.

Form Approved: Clifford L. Hilton, Attorney General.

This bond has been presented to the State Auditor of the State of Minnesota and due record thereof has been made in his office.

Ray P. Chase, State Auditor.

This bond may be registered in the holder's name on the State Treasurer's books at St. Paul, Minn., such registration being noted upon the bond by said Treasurer after [fol. 52] which no transfer shall be valid unless made on the Treasurer's books by the registered holder and similarly noted on the bond, but the same may be discharged from registration by being transferred to bearer after which it shall be transferable by delivery, but it may be again registered as before. The registration of the bond shall not restrain the negotiability of the coupons by delivery merely, but the coupons may be surrendered and the

interest made payable only to the registered holder of the bond.

Date of registration	In whose name registered	State treasurer
Sept. 15, 1924.	Henry R. Taylor, 20 Exchange Place, New York City.	Henry Rines, Treasurer by W. C. Martin, Deputy.

In accordance with a provision in this bond the coupon sheet issued herewith has been surrendered by the holder of this bond and the coupons have been cancelled by the Treasurer. The semi-annual interest on the bond is hereafter to be paid to the registered holder or order in New York or Chicago exchange, upon the proper acknowledgment of the receipt thereof.

Dated St. Paul, Minn., September 15th, 1924.

Henry Rines, State Treasurer, State Treasurer, Minnesota, by W. C. Martin, Deputy.

[fol. 53] (Endorsement:) Number 22239. United States of America, State of Minnesota. The Great Seal of the State of Minnesota, 1858. $1,000.00. Rural Credit Bond. 4½ per cent. Principal due June 1st, 1954. Interest Payable June 1st and December 1st. Principal and Interest Payable at the office of the State Treasurer, St. Paul, Minnesota, or at the option of the holder at The Merchants National Bank, St. Paul, Minnesota, or at the Bankers Trust Company, New York, N. Y. or at such other bank or Trust Company as may be appointed by said state in said Cities of St. Paul or New York.

[fol. 54] Exhibit "H"

United States of America, State of Minnesota

Certificate of Indebtedness

$1,000. No. 11101. $1,000.

This is to Certify that the State of Minnesota for value received is indebted and promises to pay to bearer, or in case of registration to registered holder, hereof, the sum of

one thousand dollars on the first day of August, A. D. 1928, and to pay interest thereon at the rate of five per centum per annum, payable semi-annually on the first days of February and August in each year, on the presentation and surrender of the respective coupons hereto attached as they severally become due, both principal and interest of this certificate being payable in lawful money of the United States of America, at the option of the holder, at the office of the State Treasurer, St. Paul, Minn., or at the Merchants National Bank, St. Paul, Minn., or at the Bankers Trust Company, New York, N. Y. or at such other bank or trust company as may be appointed by said State in said cities of St. Paul or New York. In case of registration, the principal and interest hereof will be paid to the registered holder in New York or Chicago exchange. This certificate is issued under and pursuant to Chapter 49 of the Law of Minnesota, Extra Session of 1919, entitled; "An act to provide relief and assistance for certain officers, soldiers, sail-
[fol. 55] ors, marines, nurses, and the surviving wives of certain deceased officers, soldiers, sailors, marines, and nurses, providing for issuance of certificates of indebtedness for the raising of necesary funds therefor, and for the retirement of the same by money raised from a tax levy provided therefor, and the creation of a Board to issue such certificates and supervise the expenditure and disbursement of funds and appropriating $20,000,000.00 therefor, and making it a misdemeanor for any claimant to transfer or to attempt to transfer his right or claim and for any other person to acquire or to attempt to acquire any interest therein before the issuance of the Auditor's warrant therefor," approved September 22, 1919, and under and in full compliance with the Constitution and statutes of said State. It is hereby certified, recited and declared that all acts conditions and things required to exist, happen and be performed precedent to and in the issuance of this certificate have existed, happened and been performed in due time, form and manner as required by law, and that the amount of this certificate, together with all other indebtedness of said State does not exceed any limit prescribed by the Constitution or Statutes of said State. The full faith and credit of the State of Minnesota are hereby irrevocably

pledged to the punctual payment of the principal and interest hereof. This certificate may be registered in the name of the holder as to principal and interest, or as to principal only, in the form and manner enforced hereon. [fol. 56] In witness whereof the State of Minnesota has caused this Certificate to be issued under the Great Seal of said State, attested by the Secretary of State thereof, and has causd this certificate to be signed by the members of the Soldiers' Bonus Board of said State, viz: the State Auditor, the State Treasurer, and the Adjutant General, and to be attested by the State Auditor under the seal of his office, and has caused the interest coupons hereto attached to bear the facsimile signatures of the members of said Board and the Certificate to be dated the second day of February, 1920.

W. H. Rhinow, Adjutant General; Henry Rines, State Treasurer; J. A. O. Preus, State Auditor, the Soldiers' Bonus Board, State of Minnesota.

Attest: Julius A. Schmahl, Secretary of State.

This certificate is issued in compliance with the act referred to therein and due record thereof has been made in this office.

Attest:

J. A. O. Preus, State Auditor.

[fol. 57] The State of Minnesota

No. 15. $25.00.

On August 1st, 1927, will pay to bearer in lawful money of the United States, at the option of the holder at the office of the State Treasurer, St. Paul, Minn., or at the Merchants National Bank, St. Paul, Minn., or at the Bankers Trust Company, New York, N. Y., or at such other bank or trust company as may be appointed by said state in said cities of St. Paul or New York, the sum of Twenty-five and no/100 Dollars, being six months interest then due on its certificate of indebtedness No. 11101.

W. F. Rhinow, Adjutant General; Henry Rines, State Treasurer; J. A. O. Preus, State Auditor, the Soldiers' Bonus Board of the State of Minnesota.

[fol. 58] The State of Minnesota

No. 16. $25.00

On February 1st, 1928, will pay to bearer in lawful money of the United States, at the option of the holder at the office of the State Treasurer, St. Paul, Minn., or at the Merchants National Bank, St. Paul, Minn., or at the Bankers Trust Company, New York, N. Y., or at such other bank or trust company as may be appointed by said state in said cities of St. Paul or New York, the sum of Twenty-five and no/100 Dollars, being six months interest then due on its certificate of indebtedness No. 11101.

W. F. Rhinow, Adjutant General; Henry Rines, State Treasurer; J. A. O. Preus, State Auditor, the Soldiers' Bonus Board of the State of Minnesota.

[fol. 59] The State of Minnesota

No. 17. $25.00.

On August 1st, 1928, will pay to bearer in lawful money of the United States, at the option of the holder at the office of the State Treasurer, St. Paul, Minn., or at the Merchants National Bank, St. Paul, Minn., or at the Bankers Trust Company, New York, N. Y., or at such other bank or trust company as may be appointed by said state in said cities of St. Paul or New York, the sum of Twenty-five and no/100 Dollars, being six months interest then due on its certificate of indebtedness No. 11101.

W. F. Rhinow, Adjutant General; Henry Rines, State Treasurer; J. A. O. Preus, State Auditor, the Soldiers' Bonus Board of the State of Minnesota.

[fol. 60] (Provision for Registration)

This certificate may be registered in the holder's name on the State Treasurer's books at St. Paul, Minn., such registration being noted hereon by said State Treasurer, after which no transfer shall be valid unless made on the State Treasurer's books by the registered holder and similarly noted hereon. This certificate may be discharged from registration by being transferred to bearer, after which it

shall be transferable by delivery, but it may be again registered as before.

Registration of the certificate shall not restrain the negotiability of the coupons by delivery merely, unless the coupons are surrendered and the interest made payable only to the registered holder of the certificate.

Date of registration	In whose name registrated	State treasurer
.....	.....	.....
.....	.....	.....
.....	.....	.....

In accordance with a provision in this Certificate of Indebtedness the coupon sheet issued herewith has been surrendered by the holder of this certificate and the coupons have been cancelled by the State Treasurer. The interest on this certificate is hereafter to be paid to the registered [fol. 61] holder or order upon the proper acknowledgement of the receipt thereof.

Dated St. Paul, Minn., —— —, 19 —.

——— ——, State Treasurer.

(Endorsement:) 11101. State of Minnesota. Certificate of Indebtedness. $1,000. 5 per cent. Dated February 2, 1920. Due August 1, 1928. Interest payable August first and February first at State Treasurer's office, St. Paul, Minnesota, or at State Fiscal Agencies in St. Paul, Minnesota, or New York, City.

[fol. 62] In District Court of Ramsey County

Stipulation re Hearing on Appeal

It Is Hereby Stipulated and Agreed by and between the State of Minnesota and the executors of the last will and testament of Henry R. Taylor by their respective attorneys, that the above entitled appeal may be heard by Hon. Charles M. Bechhoefer, Judge of the District Court for Ramsey County Minnesota, sitting in chambers on the 9th day of September, 1927, upon the stipulation of facts filed herein and upon the original papers and records in this proceeding heretofore transmitted to the Clerk of said Dis-

trict Court by the Attorney General of Minnesota in accordance with Section 2302 General Statutes of Minnesota, 1923.

Dated September 9, 1927.

Clifford L. Hilton, Attorney General of the State of Minnesota; John F. Bonner, Assistant Attorney General in Charge of Inheritance Tax Matters, Attorneys for the State of Minnesota. Cadwalader, Wickersham & Taft, Davis, Severance & Morgan, Attorneys for Appellants, the Executors of the last Will and Testament of Henry R. Taylor.

[fol. 63] In District Court of Ramsey County

Stipulation re Settled Case

It Is Hereby Stipulated and Agreed by and between the parties herein by their respective attorneys that all of the evidence in the above entitled case is contained in a certain stipulation of fact herein, made and entered into on the 8th day of July, 1927, and the exhibits thereto attached, and that the foregoing may be allowed as and for the settled case in this action.

Dated November 15th 1927.

Clifford L. Hinton, Attorney General. Albert F. Pratt, Assistant Attorney General in Charge of Inheritance Tax Matters. John F. Bonner, Assistant Attorney General. Davis, Severance & Morgan, Cadwalder, Wickersham & Taft, Attorneys for Executors.

[fol. 64] In District Court of Ramsey County

Order Settling Case

I hereby certify that the foregoing and attached case contains all of the evidence introduced and offered by the respective parties to the cause, and all objections, rulings, and exceptions in connection with the introduction of said evidence, and all proceedings had on the trial of said ac-

erty upon his death, as is made by said Attorney General in his computation of the Minnesota tax for the sum paid or to be paid by said estate as a Federal Estate Tax to the United States.

ORDER

Upon the foregoing Findings of Fact and Conclusions of Law, it is hereby

Ordered that the Findings and Determination of the Attorney General dated August 27, 1926, be corrected, amended and modified to conform to the said Findings of Fact and Conclusions of Law.

Dated October 14, 1927.

Charles Bechhoefer, District Judge.

IN DISTRICT COURT OF RAMSEY COUNTY

MEMORANDUM

The decedent Henry R. Taylor, at the date of and for a long time prior to his death, owned, held and kept in the state of New York, his place of residence and domicile, certain registered and unregistered Minnesota certificates of indebtedness and bonds and Minnesota municipal bonds.

The Attorney General, acting under the provisions of Sec. 2302, G. S. 1923, made findings and determined that the State is entitled to have and receive from the estate [fol. 68] of said decedent and the legatees and beneficiaries, an inheritance tax upon said bonds to be transferred to said legatees and beneficiaries.

The executors of the estate of the decedent have appealed from such findings and determination and claim, in part, that at the time of the death these bonds and certificates were physically present in the state of New York, and were tangible property; that they were bequeathed pursuant to the laws of New York, wherein the decedent then resided and was domiciled, and that the present attempt to levy an inheritance tax is in violation of the constitutional rights of those interested.

Sec. 2292, G. S. 1923, provides for the imposition of a tax upon any transfer of personal property to any person, association or corporation (except certain public corporations), when a transfer is by will or intestate law, of property within the state or within its jurisdiction and the decedent was a non-resident of the state at the time of the death.

"The power of taxation, however vast in its character and searching in its extent, is necessarily limited to subjects within the jurisdiction of the state. * * *."

"It is undoubtedly true that the actual situs of personal property which has a visible and tangible existence, and not the domicile of its owner, will, in many cases, determine the State in which it may be taxed. The same thing is true of public securities consisting of state bonds and bonds of [fol. 69] municipal bodies, and circulating notes of banking institutions; the former, by general usage, have acquired the character of and are treated as property, in the place where they are found, though removed from the domicile of the owner; the latter are treated and pass as money wherever they are. But other personal property, consisting of bonds, mortgages and debts generally, has no situs independent of the domicile of the owner, and certainly can have none where the instruments, as in the present case, constituting the evidences of debt, are not separated from the possession of the owners." State Tax on Foreign-held Bonds, 15 Wall. 300, 21 L. ed. 179, 186, 188.

And in Rhode Island Hospital Trust Co. v. Doughton, 270 U. S. 80, 70 L. ed. 475, the Court, speaking through Mr. Chief Justice Taft, said:

"It goes without saying that a state may not tax property which is not within its territorial jurisdiction." State Tax on Foreign-held Bonds, supra, and other authorities.

"The tax here is not upon property, but upon the right of succession to property, but the principle that the subject to be taxed must be within the jurisdiction of the state applies as well in the case of a transfer tax as in that of a property tax. A State has no power to tax the devolution of the property of a nonresident unless it has jurisdiction of the property devolved or transferred. In the matter of

[fol. 70] intangibles, like choses in action, shares of stock and bonds, the situs of which is with the owner, a transfer tax of course may be properly levied by the state in which he resides."

Our statute recognizes this well established principle that the property to be taxed must be either within the state or, if owned by a non-resident, within its jurisdiction at the time of the death.

In Southern Ry. Co. v. Kentucky, 71 L. ed. (U. S.) 574 578 (advance sheets), the Court, speaking through Mr. Justice Butler, said that the objections made in the state court "went to the point that, as proposed to be applied and enforced, the state statutes would operate to tax property outside and beyond the jurisdiction of Kentucky in contravention of the 14th Amendment, and the objections were sustained and the judgment of the lower court was reversed. And to the same effect, see Wachovia Bank & Trust Co. v. Doughton, 71 L. ed. (U. S.) 250—advance sheets; and Frick v. Pennsylvania, 268 U. S. 473, 69 L. ed. 1058, 42 A. L. R. 316.

The State cites Blackstone v. Miller, 188 U. S. 189, 47 L. ed. 439, in support of its position. That case involved debts owing by two New York debtors, one—a firm, and the other—a trust company, and the decedent at the time of his death was domiciled in Illinois. The case dealt with the right of the State to tax money on deposit in New York, and it was held that power over the person of the debtor conferred jurisdiction and that the state of New [fol. 71] York, having such jurisdiction, had the right to impose a tax upon the transfer of this property, for the law of that state furnishes the means to compel payment.

In Walker v. People, 64 Colo. 143, 171 Pac. 747, 8 A. L. R. 855, which presented the question of the right to levy a succession tax upon the transfer of unregistered corporate bonds of a Colorado corporation, held by a resident of New York, the Court denied the right to levy an inheritance tax, and distinguished the Blackstone case cited in support of such right. The Court said that:

"The contention of defendant in error can prevail only upon the theory laid down in Blackstone v. Miller, 188 U. S. 189 * * *, to the effect that for inheritance tax pur-

poses a debt may be taxed at the domicile of the debtor; but this was declared where the property was physically in the taxing state, and ancillary administration was in progress in its courts, and cannot be considered an authority for the imposition of the tax under consideration. In any event, bonds, such as are here involved, are specifically excepted by that opinion from the operation of the special rule therein laid down."

The Court pointed out that in Blackstone v. Miller, supra, the Court had no intention to overturn its decision in State Tax on Foreign-held bonds, supra, so far as it affected bonds and that this is clearly evident from the opinion therein, where (188 U. S. 206), the Court says:

[fol. 72] "There is no conflict between our views and the point decided in the case reported under the name of State Tax on Foreign-held Bonds, supra. The taxation in that case was on the interest on bonds held out of the state. Bonds and negotiable instruments are more than merely evidences of debt. The debt is inseparable from the paper which declares and constitutes it, by a tradition which comes down from more archaic conditions. Bacon v. Hooker, 177 Mass. 335, 83 Am. St. Rep. 279, 58 N. E. 1078. Therefore, considering only the place of the property, it was held that bonds held out of the state could not be reached. The decision has been cut down to its precise point by later cases. (authorities.)"

The taxability of bonds such as are here involved was considered in a very recent case—Appeal of Silberman, 134 Atl. Rep. (Conn.) 778. It appeared that Robert B. Hirsch died on September 23, 1924, domiciled at Stamford, Connecticut. His estate consisted in part of State and municipal bonds which were physically present in New York at the time of the death. The Court held that "State and municipal bonds which pass from hand to hand on delivery are treated as a species of tangible property and have come to be recognized as such," and, in support of this holding, the Court cited State Tax on Foreign-held Bonds, supra, and Westinghouse Electric & Mfg. Co. v. Los Angeles County, 188 Cal. 491; 205 Pac. 1076. Being tangible personal property, under the Frick case, the state and

[fol. 73] municipal bonds were "subject to a transfer tax in New York where they were found and nowhere else." In re Silberman (Sub. 15, 16), supra.

To the same effect, see McLaughlin v. Cluff, 66 Utah 245, 240 Pac. 161, 42 A. L. R. 347 and note. In that case, the bonds under consideration at no time were actually or physically within the state of Utah, nor within the jurisdiction of that state. The statute, like ours, by its terms, limited the right to impose inheritance taxes to property within the jurisdiction of the state. It was held that the decision in the Blackstone case was not controlling and that the bonds sought to be taxed, issued by a local railroad company and held at the time of the death by a resident of a foreign country at the place of his residence and secured on land within and without the state, are not subjected to a succession tax by a statute imposing such tax upon all property within the jurisdiction of the state, whether belonging to the inhabitants of the state or not, which passes by will or laws of inheritance.

The case In re Lowell's Estate, 208 App. Div. 201, 203 N. Y. S. 312, (affirmed in 147 N. E. 183) involved the taxability of certain unsecured bonds registered in New York, representing the obligation of a New York corporation, owned by a non-resident of New York and not physically within that state at the time of the death; held, that these [fol. 74] bonds were not property within the state and their transfer cannot be subjected to a tax law taxing the bonds of a domestic realty corporation owned by non-resident decedents, insofar as it taxes such bonds located in another state, was held unconstitutional.

See also Fuller v. South Carolina Tax Commission, 128 S. C. 14, 121 S. E. 478, and a very recent decision, Commonwealth v. Huntington (Va.) 138 S. E. 650.

State v. Chadwick, 133 Minn. 117, involved the transfer of certain railroad bonds, owned by a resident of Illinois and in his possession there at the time of his death. The persons inheriting were residents of Illinois. It appeared that the railway was subject to jurisdiction in several states, including Minnesota, and that in the enforcement of payment of the bonds it would not be necessary to invoke the laws of Minnesota or resort to its courts. The appellants sought to distinguish the case from State ex rel. Graff

v. Probate Court, 128 Minn. 371, which involved the transfer of certain promissory notes and book accounts, unlike the Chadwick case in which the transfer of a corporate bond registered at the New York office of the corporation was considered. The Court held that since the railroad was subject to jurisdiction in other states through which it passes and where the debt can be enforced and adequate remedies given, the fact that the mortgage covers property in Minnesota does not give it a taxable situs supporting a [fol. 75] succession tax.

The decision in the Chadwick case appears to indicate that the right of this state to tax depended upon something more than that the domicile or residence of the bond debtor should be within the state. If the test of the right to tax in the transfer of these bonds was the place of domicile of the debtor, the fact that the bond debtor had places of business in more than one state would have been immaterial. But the Court did not choose to give as broad a construction as given in the Blackstone case and held that the bonds were not taxable merely upon the broad ground that "Power over the person of the debtor confers jurisdiction."

The State urges that under the conditions here presented the registered bonds are subject to an inheritance tax, and cites Bliss v. Bliss, 221 Mass. 201, 109 N. E. 148, in support of this claim. In that case, the Court said that "the transfer cannot become effective without bringing the bond into this jurisdiction and submitting it to the inspection and registration of the officers of the state or compelling the performance of these duties by aid of state courts," and it was held that a registered bond owned by a non-resident and kept at his domicile is subject to a succession tax, for the reason that resort must be had to the aid of the courts of Massachusetts to compel a transfer of the bond. The Court held that the doterine of Blackstone v. Miller, supra, governed. In reaching its conclusion, the Court treated [fol. 76] bonds as not negotiable in the ordinary sense.

This view that a registered bond is not negotiable is opposed by the decision in Kelly v. Bell (Ind. App.) 83 N. E. 773, holding that "it is not necessary, in order to convey the legal title to registered bonds, that the bonds be surrendered and new ones taken, but a proper indorsement and delivery is all that is necessary." Upon the question of

negotiability, see 2 Fletcher Cyclopedia Corporations, 1974, Sec. 1010. Our legislative policy, as shown by recent Minnesota legislation, indicates a tendency to favor negotiability of bonds. See Chapter 416, Laws of 1927.

The bonds involved In re Lowell's Estate, supra, were registered. In the decision which was filed nearly nine years subsequent to that in the Bliss case, (affirmed by the Court of Appeals) the fact that the bonds were registered was given no consideration. The registered bonds in the Lowell case were held under conditions similar to those in the instant case, and the Court held that they were not taxable, an interpretation opposed to the interpretation in the Bliss case.

"Municipal bonds and securities of that class, which are recognized as a commodity on the market and pass from hand to hand on delivery, are commonly treated as a species of tangible property in themselves, and, on this ground, have been frequently held taxable as property wherever actually located."

Westinghouse Electric & Mfg. Co. v. Los Angeles County, supra.

[fol. 77] As stated, in the Bliss case, the Court held that the decision in Blackstone v. Miller governed. In the Frick case, the Court pointed out that Blackstone v. Miller "related to intangible personality, which has been regarded as on a different footing from tangible personality." This recent ruling of the highest court finally determined the proper interpretation.

In the Frick case the Court denied the power of the State of the domicile to exact a succession or inheritance tax in respect of tangible personal property having an actual situs in another state. In that case, it appeared that Frick at the time of death was domiciled in Pennsylvania, and the State claimed the right to impose a succession tax on certain tangible personal property of the decedent having an actual situs in other states. This claim was upheld by the Pennsylvania Supreme Court and upon appeal its decision was reversed and the power to exact such tax was denied.

If, then, the registered bonds here involved are tangible personality, under the conditions here presented, then, un-

der the principle laid down in the Frick case, they are not taxable. The question must be determined from these conditions, and not from the means required to procure a transfer.

The situation of a stockholder differs from that of a bondholder. The holder of the bonds is merely a creditor, but capital stock represents the interest of its owner in the corporation, and the rights of such owner rest on the laws of the state which created the corporation.

State ex rel. Bodman v. County of St. Louis, 142 Minn. 314.

[fol. 78] As to deduction or allowance for the amount of money paid in the state of New York as a tax upon the transfer of decedent's property, see Hollis et al. v. Jackson, 136 N. E. (Mass.) 162.

Beckhoefer, J.

In District Court of Ramsey County

Notice of Appeal

To Messrs. Davis, Severance and Morgan, attorneys for the executors of the last will and testament of Henry R. Taylor, deceased, and to N. C. Robinson, clerk of said District Court:

You Will Please Take Notice, that the State of Minnesota, appellant herein, appeals to the Supreme Court of the State of Minnesota from that part of the order of said District Court entered herein on October 14, 1927, correcting, amending, modifying and setting aside the findings and determination of the Attorney General of the State of Minnesota dated August 27, 1926, and from the whole thereof.

Dated October 31, 1927.

Clifford L. Hilton, Attorney General; Albert F. Pratt, Assistant Attorney General in Charge of Inheritance Tax Matters; John F. Bonner, Assistant Attorney General, Attorney for Appellant.

[fol. 79] In Supreme Court of Minnesota

1927

29999

In the Matter of the Inheritance Tax on the Estate of Henry R. Taylor, Deceased

State of Minnesota, Appellant,

vs.

Mouns Taylor et al., as Executors of the Last Will and Testament of Henry R. Taylor, Deceased, Respondents

Assignments of Error

1. The court erred in holding that the state of Minnesota has no jurisdiction to tax the transfer of the bonds or certificates involved herein.

2. The court erred in holding that an attempt by the state of Minnesota to impose an inheritance tax on the bonds or certificates involved herein is unconstitutional as violative of the fourteenth amendment of the United States Constitution and the due process clause of the United States Constitution.

3. The court erred in finding that the bonds and certificates involved herein do not constitute property within the state of Minnesota so as to render their transfer subject to the state inheritance tax.

4. The court erred in relieving respondents from the payment of any inheritance tax to the state of Minnesota [fol. 80] upon the transfer of the bonds or certificates in question.

5. The court erred in holding that the inheritance tax paid, or to be paid, the state of New York should be deducted from the inheritance tax to be paid the state of Minnesota.

6. The court erred in making the following conclusions of law:

"1. That the bonds of the City of Minneapolis, of the City of Saint Paul, and of the State of Minnesota, and the certificates of indebtedness of the State of Minnesota listed in the Attorney General's Findings and Determination bearing date August 27, 1926—being owned by decedent Henry R. Taylor, a resident of the State of New York and held within that state at the time of his death—and upon the transfer of which, under decedent's will, the State of Minnesota seeks to impose a tax as appears from said Findings and Determination of said attorney general, do not constitute property of the decedent within the State of Minnesota and subject to its jurisdiction so as to render the said transfer thereof subject to an inheritance tax under the Minnesota laws.

"2. That the State of Minnesota is without jurisdiction to tax the transfer of said state and city bonds and said state certificates of indebtedness.

"3. That said Findings and Determination of the Attorney General and the action of the State of Minnesota in attempting to impose an inheritance tax upon the said transfer of said state and city bonds and said state certificates of indebtedness, are in violation of the provisions of Section 1 of the Fourteenth Amendment to the Constitution of the United States and are in contravention of the due process clause of said amendment and void.

[fol. 81] "4. That the said Findings and Determination of the Attorney General dated August 27, 1926, should be set aside insofar as they find and determine that said state and municipal bonds and said state certificates of indebtedness constitute property of the decedent within the State of Minnesota and subject to its jurisdiction so as to render the said transfer thereof subject to an inheritance tax under the Minnesota laws, and that said Findings and Determination of the Attorney General should be corrected, amended and modified accordingly.

"6. That the Findings and Determination of the Attorney General dated August 27, 1926, should be corrected, amended and modified so as to provide for and make, in the computation of the Minnesota inheritance tax, the same cor-

responding deduction or allowance for the amount of money paid or to be paid to the State of New York as a tax upon the transfer of said decedent's property upon his death, as is made by said Attorney General in his computation of the Minnesota tax for the sum paid or to be paid by said estate as a Federal Estate Tax to the United States." (pp. 65-67, ff. 193-201 Record.)

7. The court erred in ordering the findings and determination of the attorney general corrected, amended and modified to conform with the findings of fact and conclusions of law.

Dated January 3, 1928.

Albert F. Pratt, Attorney General; John F. Bonner, Assistant Attorney General, Attorneys for Appellant, 102 State Capitol, St. Paul, Minn.

[fol. 82] [File endorsement omitted]

IN SUPREME COURT OF MINNESOTA

No. 98

[Title omitted]

Ramsey County, Wilson, C. J.

Syllabus

1. In the imposition of an inheritance tax in Minnesota, public securities consisting of state bonds, certificates of indebtedness and bonds of municipalities owned by a nonresident at the time of his death are tangibles and are treated as property in the state where they are found. To subject them, when out of our state, to the operation of our inheritance tax law would be in violation of the 14th Amendment to the United States Constitution.

2. The rule applies to both registered and unregistered bonds.

3. To ascertain the "clear value" of the property upon which the inheritance tax is to be imposed it is proper to

deduce the amount paid as an inheritance or succession tax in another state.

Affirmed.

OPINION—Filed April 13, 1928

The state appealed from an order modifying and reversing the findings of the Attorney General made on an application by the executors to determine the inheritance tax [fol. 83] due the state of Minnesota from the estate of Henry R. Taylor, deceased.

Decedent was a resident of New York. At his death he owned bonds issued by the cities of St. Paul and Minneapolis, rural credit bonds issued by the State of Minnesota, and certificates of indebtedness of the State of Minnesota issued by the Soldiers' Bonus Board. The aggregate value with interest accrued is $344,377.16 of which $175,000 are registered in the name of the deceased, the remainder being payable to bearer.

1. If the securities had consisted of mere debts, promissory notes or promissory notes secured by mortgages, the state would have jurisdiction to impose and collect the inheritance tax. At least such has been our holding. State v. Western Union Tel. Co., 96 Minn. 13, State ex rel. Graff v. Probate Court, 128 Minn. 371; State v. Chadwick, 133 Minn. 117; State ex rel. Shoemaker v. Probate Court, 168 Minn. 508. These decisions find support in Liverpool, etc., Ins. Co. v. Orleans Assessor, 221 U. S. 346; Met. Life Ins. Co. v. New Orleans, 205 U. S. 395; Buck v. Beach, 206 U. S. 392 wherein it is said: "The rule giving jurisdiction where the specialty may be found, has no application to a promissory note." In Wheeler v. Sohmer, 233 U. S. 434 the Buck case is distinguished upon the theory that a distinction may exist to permit the operation of an inheritance tax when the presence of the property within the state is insufficient to permit the imposition of a property tax—a distinction which has been somewhat jarred by the case of Rhode Island Trust Co. v. Doughton, 270 U. S. 69. But in the latter case bonds are, perhaps inadvertently, included in "intangibles."

Public securities consisting of state bonds, certificates of indebtedness, bonds of municipalities, like circulating notes

of banking institutions, are in a distinct class and have acquired the character of and are treated as property in [fol. 84] the place where they are found, regardless of the domicile of the owner; and such securities are treated and pass as money wherever they are. This theory and conception of the law is now well established in the understanding of modern business. Such public securities are considered and recognized as more than mere evidences of debt, which are treated as inseparable from the papers which declare and constitute them and they are, not wholly arbitrarily, advanced to this special class because of the integrity of the public faith pledged for their payment and because of their concrete tangible form. State Tax on Foreigh-Held Bonds, 15 Wall. 300; New Orleans v. Stempel, 175 U. S. 309; Blackstone v. Miller, 188 U. S. 189; Buck v. Beach, 206 U. S. 392; Wheeler v. Sohmer, 233 U. S. 434; De Ganary v. Lederer, 250 U. S. 376, 381; McGuier v. Grefry, 253 U. S. 12, 15; Dillon Mun. Corp., 5th Ed. §1399; Appeal of Silberman, 134 Atl. 778.

This principle finds support in a public policy which encourages making public securities attractive to investors so that they may be floated on terms most advantageous to the public. It results in a holding that such securities are tangible property. When so considered the matter of taxation is simple. The power of taxation is necessarily limited to subjects within the jurisdiction of the state. State Tax on Foreign-Held Bonds, supra; McCullock v. Maryland, 4 Wheat. 316, 429; Frick v. Pennsylvania, 268 U. S. 473. This is true whether the tax is upon property or is an inheritance tax. The devolution of the property of a non-resident cannot be taxed unless the state has jurisdiction of the property. Rhode Island Trust Co. v. Doughton, 270 U. S. 69. The tax should be imposed in the state where tangible property is located. We believe the power of taxation must [fol. 85] eventually be construed so that such property can be subjected to an inheritance tax in but one state. The legislature has no authority to enact a law to operate upon property in another state. Jurisdiction is as necessary to valid legislation as to valid judicial action. If we construe the law imposing the inheritance tax as operative upon or applicable to the property here involved we are of the opinion that it would be in violation of the 14th Amend-

ment to the U. S. Constitution. Met. Life Ins. Co. v. New Orleans, 205 U. S. 395; Frick v. Pennsylvania, supra; Union Refrigerator Transit Co. v. Kentucky, 199 U. S. 194; U. S. v. Bennett, 232 U. S. 299, 306. Under our decisions ordinary debts and promissory notes, secured or unsecured, are not assimilated into specialties so as to become tangibles within the doctrine stated.

2. The fact that some of the bonds were registered cannot change the rule. They are still negotiable the same as if payable to bearer. The matter of registration relates to the things to be done to effectuate the negotiation so as to preclude an equitable defense by the maker against the transferor. Aside from this the registration has no significance, except for the benefit and protection of the holder. The registered bonds may be successfully transferred time and time again by endorsement and delivery regardless of the want of registration. Any owner may surrender them and take new ones in his own name. The matter of registration cannot be a controlling element.

3. By G. S. 1923, § 2293 the inheritance tax is imposed upon "the clear value of such interest in such property" [fol. 86] to which the beneficiary is entitled. To find the "clear value" it is proper to consider and deduct the amount paid as an inheritance or succession tax in another state. For the purpose of ascertaining the "clear value" this item of expense should be applied to reduce the total net value of the property just the same as a Federal Estate Tax which we have held deductible. State ex rel. Smith v. Probate Court, 139 Minn. 210; See Frick v. Pennsylvania, supra. This subdivision of the opinion relates to other property in the estate which is concededly subject to the tax.

Affirmed.

Wilson, C. J.

Hilton, J., took no part.

[fol. 87] IN SUPREME COURT OF MINNESOTA

[Title omitted]

PETITION FOR REARGUMENT

Comes now the State of Minnesota, and petitions the court for reargument of the first two questions decided by this court in the above entitled case upon the following grounds:

I

That so much of the decision of this court holding that public securities, state bonds, certificates of indebtedness, and bonds of municipalities, owned by a non-resident at the time of his death are tangibles and are treated as property in the state where they are found, is squarely in conflict with a decision of the United States Supreme Court decided since this court decided the case at bar.

II

That so much of the opinion of this court which holds that to subject such bonds when out of our state to the operation of our inheritance tax law would be in violation of the Fourteenth Amendment to the United States Constitution, is squarely in conflict with and contrary to the decision of the United States Supreme Court hereinbefore referred to.

[fol. 88]

III

That as the United States Supreme Court has held that bonds of the character involved in the case at bar are intangible property and in the same class for taxation purposes as promissory notes, simple debts, and other choses in action, under the previous decision of this court the State of Minnesota has the right to levy an inheritance tax on the securities involved in the case at bar.

G. A. Youngquist, Attorney General. John F. Bonner, Assistant Attorney General.

[fol. 89] IN SUPREME COURT OF MINNESOTA

[Title omitted]

ORDER SETTING CAUSE FOR REARGUMENT—May 21, 1928

SIR: You will take notice that on this date the following order was entered in the above entitled cause:

Ordered that this cause be and is hereby set for argument Tuesday May 29th, 1928.

Yours respectfuly, Grace Kaercher Davis, Clerk Supreme Court.

[fol. 90] [File endorsement omitted.]

IN SUPREME COURT OF MINNESOTA

No. 98

[Title omitted]

Ramsey County

Wilson, C. J.; Dibell J. dissents

Syllabus

1. In the imposition of an inheritance tax in Minnesota, state bonds, state certificates of indebtedness and bonds of municipalities owned by a non-resident at the time of his death are intangibles having a situs at the domicile of the owner.

2. Such intangibles are subjected to an inheritance tax in this state upon the theory that the owner may invoke our laws. State ex rel. Graff v. Probate Court, 128 Minn. 371, and State ex rel. Marsh v. Probate Court, 168 Minn. 508, followed;

Reversed

OPINION—Filed Sept. 28, 1928

Upon Reargument

We are of the opinion that our holding that the securities here involved are tangibles has been reversed by the

recent case of Silberman vs. Blodgett, 48 Sup. Ct. Rep. 410, filed April 16, 1928. So construing the Silberman case, it reduces these securities to mere choses in action. Consequently our opinions cited in Subdivision 1 of the opinion are applicable. This is upon the theory that the owner must invoke the laws of this state to enforce the securities. State ex rel. Graff v. Probate Court, 128 Minn. 371, 150 N. W. 1094; State ex rel. Marsh v. Probate Court, 168 [fol. 91] Minn. 508, 210 N. W. 389. These cars are grounded in the doctrine of Blackstone v. Miller, 188 U. S. 189, which is either an exception to, or inconsistent with, the rule of Rhode Island Trust Co. v. Doughton, 270 U. S. 69, holding that jurisdiction is as necessary for the imposition of an inheritance tax as a property tax; and that a state has no power to tax the devolution of property of a non-resident unless it has jurisdiction of the property devolved or transferred. It is our aim to follow the decisions of the Supreme Court of the United States, since we are construing a provision of the Federal constitution, although our own state constitution contains a similar provision.

The opinion in the Silberman case is not necessarily inconsistent with the result we reached in this case because the domicile of the decedent may be a controlling element. But, in view of our previous holdings, it seems that we must logically reach an opposite conclusion from the fact that these securities are intangibles and not tangibles.

Our opinion affirming the lower court is now vacated and annulled and, for the reasons stated, the order of the lower court is reversed in so far as it relates to the securities here involved.

Wilson, C. J.

Dibell, J.: I dissent. Dibell, J.

(Hilton, J., took no part.)

[fol. 92] IN SUPREME COURT OF MINNESOTA

26609

In the Matter of the Inheritance Tax on the Estate of HENRY R. TAYLOR, Deceased

STATE OF MINNESOTA, Appellant,

vs.

MOSES TAYLOR et al., as Executors of the Last Will and Testament of Henry R. Taylor, Deceased, Respondents

JUDGMENT

Pursuant to an order of Court heretofore duly made and entered in this cause it is determined and adjudged that the Order of the Court below, herein appealed from, to-wit of the District Court within and for the County of Ramsey be and the same hereby is in all things reversed in so far as it relates to the securities here involved.

And it is further determined and adjudged that Appellant herein, do have and recover of Respondents herein the sum and amount of One Hundred Fifty and No/100 Dollars ($150.00) costs and disbursements in this cause in this Court, and that execution may be issued for the enforcement thereof.

Dated and signed October 13th, A. D. 1928.

By the Court.

Attest:

Grace Kaercher Davis, Clerk.

Statement for Judgment

Statutory costs, $25.00; Printer, $125.00; Clerk, $—; Acknowledgment, $—; Return, $—; Postage and express, $—; Filing Mandate, $—; Transcript, $—; Appeal Bond, $—. Total, $150.00.

[fol. 93] IN SUPREME COURT OF MINNESOTA

[Title omitted]

Petition for Appeal, Assignment of Errors, and Prayer for Reversal

PETITION FOR APPEAL

Considering itself aggrieved by the final decision of the Supreme Court of the State of Minnesota, in the above entitled cause, rendered the 13th day of October, 1928, The Farmers' Loan & Trust Company, as sole surviving executor of the last will and testament of Henry R. Taylor, deceased, appellant herein, hereby prays for the allowance of an appeal to the Supreme Court of the United States from said final judgment, and for an Order fixing the amount of the bond for costs thereon.

Appellant represents that the issues involved in the above entitled cause question the validity of the Inheritance Tax Law of the State of Minnesota (to-wit Sections 2292 to 2321, both inclusive, of the General Statutes of Minnesota for 1923, said sections being Chapter 288 of the Session Laws of Minnesota for 1905 as thereafter amended and modified by the Legislature of the State of Minnesota) insofar as said law is construed to apply to and impose an inheritance tax upon the transfer by devolution of the securities involved in this case (being bonds of the cities of St. Paul and Minneapolis, Minnesota, and bonds and certificates of indebtedness of the State of Minnesota), upon the death of their owner Henry R. Taylor, a resident of the State of New York, all of which securi-[fol. 94] ties were actually held and kept by said Henry R. Taylor in the State of New York for a long time prior to and at the date of his death, upon the ground of its being repugnant to Section 1 of the Fourteenth Amendment to the Constitution of the United States in that said law, and the authority exercised under it, deprived said appellant of its property without due process of law, and upon the further ground of its being repugnant to Section 10, Article I of the Constitution of the United States, in that it, and the authority exercised under it, impaired the obligation of contract; that the decision of said Minnesota

Supreme Court as set forth in the opinion filed by it in connection with its final judgment rendered October 13, 1928, as aforesaid was in favor of the validity of said statute as so applied, and of the authority exercised under it, and denied the claim of appellant that said statute as so applied, and the authority exercised under it, was repugnant to the Constitution of the United States; and that said cause is one in which, under the legislation in force prior to the adoption of the Act of Congress approved January 31, 1928, as amended by the Act of Congress approved April 26, 1928, a review could have been had in the United States Supreme Court in this case on writ of error under Section 237 of the Judicial Code, as amended, being Section 344 of the United States Code Annotated.

ASSIGNMENT OF ERRORS

And said appellant assigns the following errors in the record and proceedings in said cause:

1. The said Supreme Court of Minnesota erred in holding that the State of Minnesota had any jurisdiction or power, under the Constitution of the United States, to levy or impose a tax upon the transfer by devolution of the securities involved in this case (being bonds of the cities of St. Paul and Minneapolis, Minnesota, and bonds and [fol. 95] certificates indebtedness of the State of Minnesota) upon the death of their owner Henry R. Taylor, a resident of the State of New York, all of which securities were actually held and kept by said Henry R. Taylor in the State of New York for a long time prior to and at the date of his death.

2. The said Supreme Court of Minnesota erred in adjudging and deciding that the Inheritance Tax Law of Minnesota (to-wit, Sections 2292 to 2321, both inclusive, of the General Statutes of Minnesota for 1923, said sections being Chapter 288 of the Session Laws of Minnesota for 1905 as thereafter amended and modified by the Legislature of the State of Minnesota) insofar as the same is construed to apply to and impose an inheritance tax upon the said transfer of said securities as above described, and the authority exercised under said law, are valid and do not deprive appellant of its property without due process of

law in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

3. The said Supreme Court erred in adjudging and deciding that said Inheritance Tax Law of Minnesota as so applied, and the authority exercised thereunder, are valid and do not impair the obligation of contract in violation of Section 10 of Article I of the Constitution of the United States.

4. The said Supreme Court of Minnesota erred in reversing the order or judgment of the District Court of Minnesota for the Second Judicial District dated October 14, 1927, and in not giving to the appellant herein its rights under the Constitution of the United States as claimed and set forth in the record in this case.

[fol. 96] PRAYER FOR REVERSAL

For which errors the appellant herein prays that the said final judgment and decision of the Supreme Court of the State of Minnesota, dated September 13, 1928, in this cause, be reversed and a judgment rendered in favor of said appellant and for costs.

Dated December 19th, 1928.

The Farmers' Loan and Trust Company, as Sole Surviving Executor of the Last Will and Testament of Henry R. Taylor, Deceased, by George W. Morgan, Cleon Headley, Cadwalader, Wickersham & Taft, Davis Severance & Morgan, Its Attorneys.

[fol. 97] IN SUPREME COURT OF MINNESOTA

No. 26609

THE FARMERS LOAN AND TRUST COMPANY, as Sole Surviving Executor of the Last Will and Testament of Henry R. Taylor, Deceased, Appellant,

vs.

STATE OF MINNESOTA, Respondent

ORDER ALLOWING APPEAL

The petition of The Farmers Loan and Trust Company, as sole surviving executor of the last will and testament of

Henry R. Taylor, deceased, for the allowance of an appeal to the Supreme Court of the United States from the final judgment entered in the above entitled cause on October 13, 1928, came on to be heard, accompanied by assignments of error and prayer for reversal in due form, and it appearing that said cause was one in which under the legislation in force when the Act of Congress approved January 31, 1928, as amended by the Act of Congress approved April 26, 1928, was passed, a review could have been had in the Supreme Court of the United States on writ of error and the Court upon hearing Davis, Severance & Morgan, attorneys for said petitioner, in support of said petition and having duly considered said matter;

It is hereby ordered that an appeal to the Supreme Court of the United States by said The Farmers Loan and Trust Company, as sole surviving executor of the last will and testament of Henry R. Taylor, deceased, in the above entitled cause, is hereby allowed, upon the filing of a bond, for securing costs to the State of Minnesota in the form presented to this Court in the amount of Five Hundred [fol. 98] ($500.00) Dollars.

And the Clerk of this Court is hereby ordered to transmit under her hand and the seal of this Court to the Supreme Court of the United States a copy of this order and of the proceedings had and taken in this cause so that the same shall be received by said Clerk of the Supreme Court of the United States within thirty days from the date of this order.

Dated this 19 day of December, 1928.

G. B. Wilson, Chief Justice of the Supreme Court of Minnesota.

[fols. 99 & 100] Bond on appeal for $500.00 approved; omitted in printing.

[fol. 101] Citation, in usual form, showing service on G. A. Youngquist, omitted in printing.

[Fol. 102] In Supreme Court of Minnesota

Praecipe for Transcript of Record

To the Clerk of the Supreme Court of Minnesota:

You will please prepare a transcript of the record in this case to be filed in the office of the Clerk of the United States Supreme Court, pursuant to the appeal heretofore allowed herein, and include in said transcript the following portions of the record in said case in your office, namely:

1. Transcript from District Court, Second Judicial District, Ramsey County, Minnesota, consisting of the following: Executors' application to Attorney General of Minnesota for determination of inheritance tax; findings and determination of Attorney General dated August 27, 1926; Executors' notice of appeal from findings and determination to District Court for Ramsey County, Minnesota; settled case including stipulation of facts, exhibits attached thereto and stipulation for hearing appeal; stipulation for settling case; order settling case; findings of fact; conclusions of law and order of District Court dated October 14, 1927; District Court's memorandum opinion; and notice of appeal by State of Minnesota to Supreme Court of Minnesota.

2. State's assignment of errors of District Court.

3. Opinion and syllabus of Minnesota Supreme Court rendered April 13, 1928.

[Fol. 103] 4. State's petition for reargument in Minnesota Supreme Court.

5. Order of Minnesota Supreme Court granting reargument.

6. Opinion and syllabus of Minnesota Supreme Court rendered September 28, 1928.

7. Judgment in Minnesota Supreme Court dated October 13, 1928.

8. Executor's petition for appeal, assignment of errors and prayer for reversal.

9. Order of Minnesota Supreme Court allowing appeal.

10. Bond on appeal.

11. Citation and service.

12. The praecipe and service.

Said transcript to be prepared as required by law and the rules of the Supreme Court of Minnesota and the Supreme Court of the United States.

Dated December 28, 1928.

George W. Morgan, Cleon Headley, Cadwalader, Wickersham & Taft, Davis, Severance & Morgan, Attorneys for Appellant.

We, the attorneys of record for the appellee in the above entitled cause, do acknowledge due service of the above praecipe this 29th day of December, 1928.

G. A. Youngquist, Attorney General of the State of Minnesota; John F. Bonner, Assistant Attorney General of the State of Minnesota, Attorneys for Appellee.

[fol. 104] Certificate of judgment omitted in printing.

[fol. 105] Clerk's certificate to foregoing transcript omitted in printing.

[fols. 106-91] Return to order allowing appeal omitted in printing.

[fol. 92] Note.—The preceding portion of the record in appeal No. 632 is identical with that part of the record in appeal No. 632 commencing from the beginning and continuing to and including page 92 of said original record, whereon appears the judgment of the Supreme Court of Minnesota dated October 15, 1928. It is therefore omitted in printing.

[fol. 93] In District Court of Ramsey County, Second Judicial District

In the Matter of the Inheritance Tax on the Estate of Henry Taylor, Deceased

Order and Judgment Affirming in Part and Directing the Correction, Amendment, and Modification in Part of the Findings and Determination of the Attorney General

This Court heretofore and on or about October 14, 1927, entered herein its findings of fact, conclusions of law and order or judgment correcting, amending and modifying the findings and determination of the Attorney General herein dated August 27, 1926. Thereafter, the State of Minnesota appealed from said order or judgment to the Supreme Court of Minnesota and said Supreme Court of Minnesota on September 28, 1928, filed its opinion herein reversing the said order or judgment of this court "in so far as it relates to the securities here involved." The mandate of the Supreme Court of Minnesota pursuant to its said opinion has now been remitted to and received by this Court.

Upon the findings of fact heretofore filed herein and pursuant to said opinion and mandate of the Supreme Court of Minnesota,

It is hereby ordered, adjudged, and decreed that the findings and determination of the Attorney General dated August 27, 1926, be corrected, amended and modified so as to provide for and make, in the computation of the Minnesota inheritance tax, the same corresponding deduction or allowance for the amount of money paid or to be paid to the [fol. 94] State of New York as a tax upon the transfer of said decedent's property upon his death, as is made by said Attorney General in his computation of the Minnesota tax for the sum paid or to be paid by said estate as a Federal estate tax to the United States.

It is further ordered, adjudged, and decreed, that in all other respects said findings and determination of the Attorney General dated August 27, 1926, be and they are hereby affirmed.

Charles Bechhoeffer, District Judge.

Dated November 14th, 1928.

[fol. 95] IN DISTRICT COURT OF RAMSEY COUNTY

[Title omitted]

NOTICE OF APPEAL

To G. A. Youngquist, Esq., Attorney General of the State of Minnesota, and John F. Bonner, Esq., Asst. Attorney General of the State of Minnesota, and N. C. Robinson, Esq., Clerk of the above-named District Court:

You will please take notice that The Farmers Loan & Trust Company, surviving executor of the last will and testament of Henry R. Taylor, Deceased, appeals to the Supreme Court of the State of Minnesota from all of that part of the order or judgment entered in and by the above-named District Court on November 14, 1928, which affirms in part the Findings and Determination of the Attorney General of Minnesota dated August 27, 1926, appealed from in this proceeding, save and except in so far as said order or judgment of said District Court affirms that part of said Findings and Determination of the Attorney General of Minnesota dated August 27, 1926, which finds and determines that the 528 shares of the capital stock of the Minneapolis, Saint Paul & Sault Ste. Marie Railway Company listed in said Findings and Determination constituted property of the decedent, Henry R. Taylor, within the State of Minnesota and subject to its jurisdiction so as to render [fol. 96] the transfer thereof subject to an inheritance tax under Minnesota laws.

Cadwalader, Wickersham & Taft, Davis, Severance & Morgan, Attorneys for the Farmers Loan & Trust Company, Executor of the Last Will and Testament of Henry R. Taylor, Deceased.

Due service of the within Notice of Appeal is hereby admitted this 4th day of December, 1928.

G. A. Youngquist, Attorney General of the State of Minnesota; John F. Bonner, Asst. Attorney General of the State of Minnesota, Attorneys for the State of Minnesota.

In District Court of Ramsey County

Stipulation for Waiver of Bond

The State of Minnesota hereby waives bond on appeal and agrees that proceedings in the above mentioned cause shall be stayed and all rights affected by said appeal saved with the same force and effect as if costs and supersedeas bond had been duly executed, served and filed by appellant herein as provided by the statutes of the State of Minnesota.

G. A. Youngquist, Attorney General of the State of Minnesota. John F. Bonner, Asst. Attorney General of the State of Minnesota.

Dated December 4, 1928.

[fol. 97] In Supreme Court of Minnesota

1928

In the Matter of the Inheritance Tax on the Estate of Henry R. Taylor, Deceased

The Farmers Loan & Trust Company, as Executor of the Last Will and Testament of Henry R. Taylor, Deceased, Appellant,

vs.

State of Minnesota, Respondent

Assignment of Errors

Errors Assigned by Appellant to the Order or Judgment of the Above-named District Court Dated and Entered November 14, 1928

1. The District Court of Minnesota for Ramsey County, Second Judicial District, erred in affirming, by its order or judgment dated and entered November 14, 1928, that part of the Findings and Determination of the Attorney General of Minnesota dated August 27, 1928, wherein it was found and determined that a transfer or inheritance tax is due the State of Minnesota on account of the transfer by devolution of the bonds of the City of Minneapolis, the

City of St. Paul and the State of Minnesota, and of the certificates of indebtedness of the State of Minnesota listed in said Findings and Determination and which were owned by decedent, Henry R. Taylor, a resident of New York, and were held and kept by him in the State of New York at the time of his death.

The said Court should have ordered and adjudged that said Findings and Determination should be set aside in so far as they find and determine that any transfer or inheritance tax is due the State of Minnesota on account of the [fol. 98] said transfer by devolution of said State and municipal bonds and said State certificates of indebtedness.

2. Said Court erred in holding that said State and Municipal bonds and said State certificates of indebtedness constituted property of said decedent at the date of his death within the State of Minnesota or subject to its jurisdiction or having any situs in Minnesota so as to render the transfer thereof subject to an inheritance tax under Minnesota law.

The Court should have held that said bonds and certificates of indebtedness did not constitute property of said decedent at the date of his death within the State of Minnesota or subject to its jurisdiction or having any situs in Minnesota so as to render the transfer thereof subject to an inheritance tax under Minnesota laws.

3. Said Court erred in holding that the inheritance tax laws of Minnesota include and apply to the said transfer of said State and Municipal bonds and said State certificates of indebtedness.

The Court should have held that the inheritance tax laws of Minnesota do not include and apply to the said transfer of said bonds and certificates of indebtedness.

4. The Court erred in holding that the State of Minnesota has jurisdiction to tax the said transfer of said State and Municipal bonds and said State certificates of indebtedness.

The Court should have held that said State of Minnesota is without jurisdiction to tax the said transfer of said bonds and certificates of indebtedness.

5. Said Court erred in failing to hold that said Findings and Determination and the levy and assessment of a tax

upon the said transfer of said State and Municipal bonds and said State certificates of indebtedness is an attempt to [fol. 99] give to the law under which said Findings and Determination were made an extraterritorial effect in violation of the Constitution of the United States.

The Court should have held that said Findings and Determination and the levy and assessment of such a tax is an attempt to give the law under which said Findings and Determination were made an extraterritorial effect in violation of the Constitution of the United States.

6. Said Court erred in failing to hold that said Findings and Determination and the law under which they were made (Sections 2292 to 2321, both inclusive, of the General Statutes of Minnesota, 1923), as construed by said Court, are invalid and in violation of the provisions of the Constitution of the United States, viz.: Section 1 of the Fourteenth Amendment thereto, that no State shall make or enforce any law which shall abridge the privileges, or immunities of the citizens of the United States, nor shall any state deprive any person of property without due process of law, nor deny to any person, within its jurisdiction, the equal protection of the laws.

The Court should have held that said Findings and Determination, and said law under which they were made as construed by the Court, are invalid under the said provisions of said Fourteenth Amendment to the Constitution of the United States.

7. The Court erred in failing to hold that said Findings and Determination, and the said law under which they were made as construed by said Court, are invalid and in violation of the provisions of the Constitution of the United States, viz.: Section 10 of Article I thereof, that no State shall pass any law impairing the obligations of contracts. [fols. 100 & 100½] The Court should have held that said Findings and Determination, and the said law under which they were made as construed by said Court, are invalid and in violation of said provisions of the Constitution of the United States.

Cadwalader, Wickersham & Taft, Davis, Severance & Morgan, Attorneys for the Farmers Loan & Trust Company, Executor of the Last Will and Testament of Henry R. Taylor, Deceased.

[fol. 101] IN SUPREME COURT OF MINNESOTA

98

[Title omitted]

Ramsey County. Per Curiam

OPINION

Appeal from a final order which is the equivalent of a judgment entered on Nov. 14, 1928, adjudging in substance that the state is entitled to collect an inheritance tax in said estate in relation to municipal bonds issued by the cities of St. Paul and Minneapolis, Minnesota, and also in relation to certificates of indebtedness of the State of Minnesota.

The questions presented are those decided by this court on a former appeal as reported in 175 Minn. 310. Our previous conclusion was based upon the Constitution of the United States and our conception of its construction by the United States Supreme Court. We did not there base our decision upon our own fundamental law but upon the Federal authority and upon authority of our previous conclusion and the Federal Constitution the said final order or judgment from which this appeal is taken is affirmed.

[fol. 102] IN SUPREME COURT OF MINNESOTA

27284

In the Matter of the Inheritance Tax on the Estate of HENRY R. TAYLOR, Deceased

STATE OF MINNESOTA, Respondent,

vs.

MOSES TAYLOR et al., as Executors of the Last Will and Testament of Henry R. Taylor, Deceased, Appellant

JUDGMENT

Pursuant to an order of Court heretofore duly made and entered in this cause it is determined and adjudged that

the Judgment of the Court below, herein appealed from, to-wit, of the District Court within and for the County of Ramsey be and the same hereby is in all things Affirmed.

And it is further determined and adjudged that Respondent herein, do have and recover of Appellants herein the sum and amount of Twenty-five and no/100 Dollars, ($25.00) Final Judgment in this cause in this Court, and that execution may be issued for the enforcement thereof.

Dated and signed December 19th, A. D. 1928.

By the Court.

Attest: Grace Kaercher Davis, Clerk. (Supreme Court Seal.)

Statement for Judgment

Statutory Costs,$25.00; Printer,$—; Clerk, $—; Acknowledgments, $—; Returns, $—; Postage and Express, $—; Filing Mandate $—; Transcript, $—; Appeal Bond, $—; Total, $25.00.

[fol. 103] In Supreme Court of Minnesota

[Title omitted]

Petition for Appeal, Assignment of Errors, and Prayer for Reversal

Petition for Appeal

Considering itself aggrieved by the final decision of the Supreme Court of the State of Minnesota, in the above entitled cause, rendered the 19th day of December, 1928, The Farmers' Loan and Trust Company, as sole surviving executor of the last will and testament of Henry R. Taylor, deceased, appellant herein, hereby prays for the allowance of an appeal to the Supreme Court of the United States from said final judgment, and for an Order fixing the amount of the bond for costs thereon.

Appellant represents that the issues involved in the above entitled cause question the validity of the Inheritance Tax Law of the State of Minnesota (to-wit Sections 2292 to 2321, both inclusive, of the General Statutes of Minnesota

for 1923, said sections being Chapter 288 of the Session Laws of Minnesota for 1905 as thereafter amended and modified by the Legislature of the State of Minnesota) insofar as said law is construed to apply to and impose an inheritance tax upon the transfer by devolution of the securities involved in this case (being bonds of the cities of St. Paul, and Minneapolis, Minnesota, and bonds and certificates of indebtedness of the State of Minnesota), upon the death of their owner Henry R. Taylor, a resident of the State of New York, all of which securities were actually held [fol. 104] and kept by said Henry R. Taylor in the State of New York for a long time prior to and at the date of his death, upon the ground of its being repugnant to Section 1 of the Fourteenth Amendment to the Constitution of the United States in that said law, and the authority exercised under it, deprived said appellant of its property without due process of law, and upon the further ground of its being repugnant to Section 10, Article I of the Constitution of the United States, in that it, and the authority exercised under it, impaired the obligation of contract; that the decision of said Minnesota Supreme Court as set forth in the opinion filed by it in connection with its final judgment rendered December 19, 1928, as aforesaid was in favor of the validity of said statute as so applied, and of the authority exercised under it, and denied the claim of appellant that said statute as so applied, and the authority exercised under it, was repugnant to the Constitution of the United States; and that said cause is one in which, under the legislation in force prior to the adoption of the Act of Congress approved January 31, 1928, as amended by the Act of Congress approved April 26, 1928, a review could have been had in the United States Supreme Court in this case on writ of error under Section 237 of the Judicial Code, as amended, being Section 344 of the United States Code Annotated.

Assignment of Errors

And said appellant assigns the following errors in the record and proceedings in said cause:

1. The said Supreme Court of Minnesota erred in holding that the State of Minnesota had any jurisdiction or power, under the Constitution of the United States, to levy

or impose a tax upon the transfer by devolution of the securities involved in this case (being bonds of the cities of [fol. 105] St. Paul and Minneapolis, Minnesota, and bonds and certificates of indebtedness of the State of Minnesota) upon the death of their owner Henry R. Taylor, a resident of the State of New York, all of which securities were actually held and kept by said Henry R. Taylor in the State of New York for a long time prior to and at the date of his death.

2. The said Supreme Court of Minnesota erred in adjudging and deciding that the Inheritance Tax Law of Minnesota (to-wit, Section 2292 to 2321, both inclusive, of the General Statutes of Minnesota for 1923, said sections being Chapter 288 of the Session Laws of Minnesota for 1905 as thereafter amended and modified by the Legislature of the State of Minnesota) insofar as the same is construed to apply to and impose an inheritance tax upon the said transfer of said securities as above described, and the authority exercised under said law, are valid and do not deprive appellant of its property without due process of law in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

3. The said Supreme Court erred in adjudging and deciding that said Inheritance Tax Law of Minnesota as so applied, and the authority exercised thereunder, are valid and do not impair the obligation of contract in violation of Section 10 of Article I of the Constitution of the United States.

4. The said Supreme Court of Minnesota erred in affirming the order or judgment of the District Court of Minnesota for the Second Judicial District dated November 14, 1928, and in not giving to the appellant herein its rights under the Constitution of the United States as claimed and set forth in the record in this case.

[fol. 106] PRAYER FOR REVERSAL

For which error the appellant herein prays that the said final judgment and decision of the Supreme Court of the State of Minnesota, dated December 19, 1928, in this cause,

be reversed and a judgment rendered in favor of said appellant and for costs.

Dated December 19th, 1928.

The Farmers Loan and Trust Company, as Sole Surviving Executor of the last Will and Testament of Henry R. Taylor, Deceased, by George W. Morgan, Cleon Headley, Cadwalader, Wickersham & Taft, Davis, Severance & Morgan, Its Attorneys.

[fol. 107] IN SUPREME COURT OF MINNESOTA

No. 27284

THE FARMERS LOAN AND TRUST COMPANY, AS SOLE SURVIVING Executor of the Last Will and Testament of Henry R. Taylor, Deceased, Appellant,

vs.

STATE OF MINNESOTA, Respondent

ORDER ALLOWING APPEAL

The petition of The Farmers Loan and Trust Company, as sole surviving executor of the last will and testament of Henry R. Taylor, deceased, for the allowance of an appeal to the Supreme Court of the United States from the final judgment entered in the above entitled cause on December 19, 1928, came on to be heard, accompanied by assignments of error and prayer for reversal in due form, and it appearing that said cause was one in which under the legislation in force when the Act of Congress approved January 31, 1928, as amended by the Act of Congress approved April 26, 1928, was passed, a review could have been had in the Supreme Court of the United States on writ of error and the Court upon hearing Davis, Severance & Morgan, attorneys for said petitioner, in support of said petition and having duly considered said matter;

It is hereby ordered that an appeal to the Supreme Court of the United States by said The Farmers Loan and Trust Company, as sole surviving executor of the last will and testament of Henry R. Taylor, deceased, in the above en-

titled cause, is hereby allowed, upon the filing of a bond, for securing costs to the State of Minnesota in the form presented to this Court in the amount of Five Hundred ($500.00) Dollars.

[fol. 108] And the Clerk of this Court is hereby ordered to transmit under her hand and the seal of this Court to the Supreme Court of the United States a copy of this order and of the proceedings had and taken in this cause so that the same shall be received by said Clerk of the Supreme Court of the United States within thirty days from the date of this order.

Dated this 19th day of December, 1928.

S. B. Wilson, Chief Justice of the Supreme Court of Minnesota.

[fols. 109-110] Bond on appeal for $500.00 approved; omitted in printing.

[fol. 111] Citation, in usual form, showing service on G. A. Youngquist, omitted in printing.

[fol. 112] In Supreme Court of Minnesota

[Title omitted]

Præcipe for Transcript of Record

To the Clerk of the Supreme Court of Minnesota:

You will please prepare a transcript of the record in this case to be filed in the office of the Clerk of the United States Supreme Court, pursuant to the appeal heretofore allowed herein, and include in said transcript the following portions of the record in said case in your office, namely:

1. Transcript from District Court, Second Judicial District, Ramsey County, Minnesota, consisting of the following: Executors' application to Attorney General of Minnesota for determination of inheritance tax; findings

and determination of Attorney General dated August 27, 1926; Executors' notice of appeal from findings and determination to District Court for Ramsey County, Minnesota; settled case including stipulation of facts, exhibits attached thereto and stipulation for hearing appeal; stipulation for settling case; order settling case; findings of fact, conclusions of law and order of District Court dated October 16, 1927; District Court's memorandum opinion; and notice of appeal by State of Minnesota to Supreme Court of Minnesota.

2. State's assignment of errors of District Court.

3. Opinion and syllabus of Minnesota Supreme Court rendered April 13, 1928.

[fol. 112] 4. State's petition for reargument in Minnesota Supreme Court.

5. Order of Minnesota Supreme Court granting reargument.

6. Opinion and syllabus of Minnesota Supreme Court rendered September 28, 1928.

7. Judgment in Minnesota Supreme Court dated October 13, 1928.

8. Minnesota Supreme Court's mandate to District Court.

9. Order and Judgment of District Court dated November 14, 1928.

10. Executor's Notice of Appeal to Supreme Court of Minnesota.

11. Executor's assignment of errors of District Court.

12. Opinion of Minnesota Supreme Court rendered December 14, 1928.

13. Judgment in Minnesota Supreme Court dated December 19, 1928.

14. Executor's petition for appeal, assignment of errors and prayer for reversal.

15. Order of Minnesota Supreme Court allowing appeal.

16. Bond on appeal.

17. Citation and service.

18. This praecipe and service.

Said transcript to be prepared as required by law and the rules of the Supreme Court of Minnesota and the Su-
[Rel. 124] preme Court of the United States.

Dated December 28, 1920.

George W. Morgan, Chas Handley, Cadwalader, Wickersham & Taft, Davis, Severance & Morgan, *Attorneys for Appellant.*

We, the attorneys of record for the appellee in the above entitled cause, do acknowledge due service of the above praecipe this 29th day of December, 1920.

C. A. Youngquist, *Attorney General of the State of Minnesota; John F. Bonner, Assistant Attorney General of the State of Minnesota, Attorneys for Appellee.*

[Rel. 124] Certificate of lodgment omitted in printing.

[Rel. 124] Clerk's certificate to foregoing transcript omitted in printing.

[Rel. 127] Return to order allowing appeal omitted in printing.

[Fol. 116] In Supreme Court of the United States, October Term, 1928

Nos. 632 and 633

The Fidelity Loan & Trust Company, as Sole Surviving Executor of the Last Will and Testament of Henry R. Taylor, Deceased, Appellant,

vs.

State of Minnesota, Appellee

Statement of Points on Which Appellant Intends to Rely and Designation of Parts of the Record Deemed Necessary for the Consideration Thereof—Filed Feb. 2, 1929

Appellant being advised that in view of the fact that these two appeals are in the same case it is permissible to have the records of both printed under one cover, this single statement is made for both appeals numbered 632 and 633, October Term 1928.

The appellant herein intends to rely upon the following points in the two appeals taken in this case:

1. The State of Minnesota had no jurisdiction or power under the Constitution of the United States to levy or impose a tax upon the transfer by devolution of the securities involved in this case (being bonds of the Cities of St. Paul and Minneapolis, Minnesota, and bonds and certificates of indebtedness of the State of Minnesota) upon the death of their owner, Henry R. Taylor, a resident of the State of New York, all of which securities were actually held and kept by said Henry R. Taylor in the State of New York for [Fol. 117] a long time prior to and at the date of his death.

2. The inheritance tax law of Minnesota (to-wit), Sections 2282 to 2321, both inclusive, of the General Statutes of Minnesota for 1923, said sections being Chapter 288 of the Session Laws of Minnesota for 1905 as thereafter amended and modified by the Legislature of the State of Minnesota) in so far as the same is construed to apply to and impose an inheritance tax upon the said transfer of

said securities as above described, and the authority exercised under said law, are invalid and deprive appellant of its property without due process of law in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

3. The said inheritance tax law of Minnesota as so applied, and the authority exercised thereunder, are invalid and impair the obligation of contract in violation of Section 10 of Article 1 of the Constitution of the United States.

4. The Supreme Court of Minnesota erred in reversing the order or judgment of the District Court of Minnesota for the Second Judicial District, dated October 14, 1927, and in not giving to appellant its rights under the Constitution of the United States as claimed and set forth in the record in this case.

5. The Supreme Court of Minnesota erred in affirming the order or judgment of the District Court of Minnesota for the Second Judicial District, dated November 14, 1928, and in not giving to the appellant herein its rights under [fol. 120] the Constitution of the United States as claimed and set forth in the record in this case.

Appellant designates the following parts of the records in these two appeals as those which it thinks necessary for the consideration of the above mentioned points:

1. All of the record in appeal No. 632 (except repetition of titles) as transmitted by the Clerk of the Supreme Court of Minnesota to the Clerk of the United States Supreme Court.

2. All of the record in appeal No. 633 (except repetition of titles) as transmitted by the Clerk of the Supreme Court of Minnesota to the Clerk of the United States Supreme Court.

However, if the records in said two appeals are printed under one cover, then appellant requests that all of said record in appeal No. 632 be printed in full and that all of that part of the record in appeal No. 633 commencing with page 93 of said original record whereon appears an order and judgment of the District Court for Ramsey County, and

continuing to the end of said record, be printed with a notation in substantially the following form:

"The preceding portion of the record in appeal No. 633 is identical with that part of the record in appeal No. 632 commencing from the beginning and continuing to and including page 92 of said original record whereon appears the judgment of the Supreme Court of Minnesota dated October 13, 1928."

George W. Morgan, Cleon Headley, Attorneys for Appellant.

Dated January 30, 1929.

[fols. 121 & 122] We, the attorneys of record for the appellee in the above entitled cases, acknowledge due service of the above Statement and Designation this 31st day of January, 1929; and we do stipulate and agree that the records in said appeals Nos. 632 and 633 may be printed in the manner requested in the within Statement and Designation.

G. A. Youngquist, Attorney General of the State of Minnesota; John F. Bonner, Assistant Attorney General of the State of Minnesota, Attorneys for Appellee.

[fol. 123] [File endorsement omitted.]

Endorsed on cover: File No. 33,941. Minnesota Supreme Court. Term No. 632. The Farmers Loan and Trust Company, as sole surviving executor of the last will and testament of Henry R. Taylor, deceased, appellant, vs. The State of Minnesota. File No. 33,942. Term No. 633. The Farmers Loan and Trust Company, as sole surviving executor of the last will and testament of Henry R. Taylor, deceased, appellant, vs. The State of Minnesota. Filed January 18, 1929, 19—. File No. 33,941, 33,942.